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TRANSACTIONS OF THE
ROYAL HISTORICAL SOCIETY

THE KING'S PRISONS BEFORE 1250

By R. B. Pugh, M.A., F.S.A., F.R.Hist.S.

READ 9 JANUARY 1954

IN the twelfth and thirteenth centuries there was a recognizable, if indefinite, distinction between the king's prisons and the prisons of his subjects. It is only with the king's prisons that this paper is concerned. Nor with all of these; for those royal prisons (mostly castles) which temporarily harboured state prisoners and prisoners of war it almost wholly ignores. The theme, in short, is common gaols for common suspects.

Opposite the king's palace in Winchester High Street there stood in the eleventh century a building of uncertain character called a baulk-house.[1] Here lay thieves in the first English prison which it is at present possible to locate. By 1100 or thereabouts the site of this building had been encroached upon, and there is no evidence that a prison then stood in the city. By 1158, however, gaolers were being paid out of the issues of Hampshire,[2] and from this it may perhaps be assumed that Winchester prison, if ever discontinued, had been restored. The gaol of London probably existed in 1130, though it is not expressly mentioned until 1156.[3] There was a gaol in Wiltshire, probably at Salisbury, in 1159.[4] In 1163 a gaol was 'prepared' at Thetford and in the same year works

[1] 'Lebalcheus' (*Domesday Book, Additamenta* (Rec. Com.), i. 532). *Cf.* G. W. Kitchin, *Winchester* (1890), p. 75.

[2] *Pipe Roll 1158* (Pipe Roll Soc.), p. 172.

[3] *Engl. Hist. Rev.*, lix. 5.

[4] *Pipe R. 1159*, p. 38. The text runs: 'Et pro justicia facienda de latronibus 28*s.* 4*d.* Et in operacione gaiole ad custod' latronum 14*s.* 6*d.*' There is perhaps an implication here that there had not previously been any proper place in which to hold the thieves.

were done upon a gaol at Ipswich.[1] Such are, or seem to be, the first five English prisons.

By a well-remembered clause in the Assize of Clarendon the sheriffs throughout England were directed to establish gaols in counties where no gaols then were. This order, which by a stretch of language might be called the first piece of English prison legislation, was promptly and thoroughly executed. In no fewer than seventeen counties and in the city of Winchester money was spent on building or repairing gaols in the fiscal year 1166.[2] Of these eighteen areas four were already furnished with gaols, but in two of the four the provision apparently was not deemed sufficient. The sheriff of Norfolk moved his gaol from Thetford to Norwich,[3] and his colleague in Wiltshire added a second gaol at Malmesbury[4] to serve the northern stretches of his bailiwick. In eleven other counties sums varying from £2 to £5 were devoted to prison works, and in two of them, Kent and Yorkshire, two prisons were constructed or repaired. In Winchester, too, there were evidently more gaols than one.[5] When the fiscal year 1166 had ended, sixteen counties had one gaol each and in three more there were at least two apiece.

Between 1167 and 1170 provision for prisons was made in three other counties.[6] After this no new counties are added to the list until 1183, when substantial sums were spent in Berkshire[7] and in Southampton town.[8] In 1184 a small sum was spent in Derbyshire.[9] In 1185 there are references to gaols in Cornwall,[10] Gloucestershire[11] and Staffordshire.[12] By 1210 provision had been made in five more counties,[13] leaving only seven in which there was apparently no place of detention. Of these seven, four were the small counties of Dorset, Rutland, Westmorland and Worcester, and the other three the palatine or marcher counties of Chester,

[1] *Pipe R. 1163*, pp. 29, 33.

[2] *Pipe R. 1166*, *passim*. The counties were Beds, Bucks, Cambs, Devon, Essex, Hants, Herts, Hunts, Kent, Leics, Norfolk, Northants, Oxon, Suffolk, Warwick, Wilts, Yorks.

[3] *Ibid.*, p. 17. [4] *Ibid.*, p. 72.

[5] *Ibid.*, p. 105. The phrase used is 'in operat' gaiolar' Wint' '.

[6] Lincs, Notts, Somerset.

[7] *Pipe R. 1183*, pp. 134, 137.

[8] *Ibid.*, p. 148. [9] *Pipe R. 1184*, p. 99. [10] *Pipe R. 1185*, p. 200.

[11] *Ibid.*, p. 144. [12] *Ibid.*, p. 164.

[13] Cumberland, Lancs, Salop, Surrey, Sussex.

Durham and Hereford. Worcestershire had a gaol by 1221[1] and Westmorland by 1228.[2] In Chester, Dorset, Durham and Herefordshire there is express mention of a gaol by 1238.[3]

This sketch of the stages by which the programme of 1166 was unfolded is largely based upon a study of the first occurrences of particular prisons in the records. A prison is nearly always mentioned initially in connexion with some works upon it and it would be pleasant if it could be shown that these were actually works of primary construction. Unfortunately the colourless word *operacio* all too frequently conceals events. Nor are we necessarily profited when we are told, in so many words, that a prison is being 'mended' or 'made', for 'mend' and 'make' do not always seem to bear their customary meanings. Thus in 1220 gaols were 'made' at Ipswich,[4] Newcastle-upon-Tyne[5] and Norwich,[6] although those towns had had gaols in the twelfth century and repairs had been executed meanwhile. A rather striking instance of verbal laxity comes from Devonshire, where the sheriff was ordered in 1229 to spend up to 20 marks in 'making' a gaol in Exeter castle,[7] and 30 marks next year upon 'repairing' it.[8] This and much other evidence implies that both 'make' and 'mend' were used loosely and that neither word should be taken as proof that a primary construction was or was not intended. Those who have worked upon the early history of other buildings will no doubt have been exasperated by the same terminological ambiguities.

It must at the same time be remembered that many gaols were insubstantial. Years might pass in which a gaol stood ruined and deserted, and when it was at last put right the work upon it might have been of such a character as to amount to entirely new construction. Thus 'make' following 'mend' may imply a real discontinuity. In the case of the gaol of Leicestershire it can be fairly clearly shown that such was the course of events, though the evidence comes from the end of the thirteenth century.[9]

[1] E.g. *Rolls of Justices in Eyre in Lincs and Worcs 1218–21* (Selden Soc.), p. 535.

[2] *Pat. Rolls 1225–32*, p. 218.

[3] It is doubtless accidental that earlier references have not been traced.

[4] *Rot. Litt. Claus.*, i. 410*b*. [5] *Ibid.*, p. 432*b*. [6] *Ibid.*, p. 410*b*.

[7] *Cal. Liberate Rolls 1226–40*, p. 122.

[8] *Ibid.*, p. 161. [9] *V.C.H. Leics*, ii. 91.

Full weight must be given to these difficulties. Nevertheless it may well be that a chronological list of first occurrences does not give a wholly wrong impression of the building programme. It is probably true that there were few county gaols before 1166, that many were built in that year, and that in the ensuing eighty years the sheriffs filled in most of the gaps.

In 1166 the sheriffs were told, with no greater precision, to put their gaols in 'a borough or in some castle'. In many instances they can have felt little doubt about the place to choose. Gaols were at once planted in Aylesbury, Cambridge, Exeter, Huntingdon, Ilchester, Lincoln, Newcastle-upon-Tyne, Norwich, Northampton, Nottingham and Oxford to serve the counties that surround them, and those places remained throughout our period the only gaol-towns in those counties. Within sixty years of the promulgation of the Assize gaols were in existence at Appleby, Carlisle, Guildford, Hereford and Worcester, and within ninety at Chester, Durham and Oakham. In these cases, too, no other royal gaol was in regular use in the counties in which they lie. One might almost add Bedfordshire, Gloucestershire, Somerset, Suffolk, Surrey and Sussex to the single-gaol counties; certainly Bedford, Gloucester, Ipswich and Chichester were the main gaol-towns; but in the 'twenties and 'thirties of the thirteenth century there are very occasional references to competing gaols.[1] There was a town gaol at Southampton from an early date, but, that apart, Winchester sheltered the only gaols in Hampshire. There was a gaol at Tickhill in 1166,[2] at Knaresborough in 1218–19[3] and at Middleham in 1237[4]; otherwise York gaol sufficed for Yorkshire. The gaols of Lancashire have made an unexpectedly slight impression on the records. One existed at Manchester in 1188[5] and at West Derby in 1234[6]; all other references are to Lancaster, the historic gaol-town. Nearly all the places named either contained

[1] A *prisona regis*, or a gaol similarly styled, is mentioned at Bristol in 1230 (*Close R. 1227–31*, p. 389), at Hastings in 1235–6, 1237 and 1240 (*Close R. 1234–7*, p. 453; *1237–42*, pp. 14, 229) and at Bury St. Edmunds in 1232 (*Close R. 1231–4*, p. 99). The gaol at Dunstable is mentioned in 1227 (*Bucks Eyre Roll 1227* (Bucks Rec. Soc.), p. 49).

[2] *Pipe R. 1166*, p. 36. A knight captured at Mirabeau was in prison at Tickhill in 1204 (*Rot. Litt. Claus.*, i. 39*b*).

[3] *Rolls of Justices in Eyre for Yorks 1218–19* (Selden Soc.), p. 283.

[4] *Close R. 1234–7*, p. 502.

[5] *Pipe R. 1188*, p. 6.

[6] *Close R. 1234–7*, p. 15.

castles at the times when gaols were set up within them or could probably have been reckoned boroughs. In many instances, of course, they were the meeting-places of county courts and the seats of sheriffs' offices.

In several counties the situation is more complicated than in those already mentioned. In Berkshire, a county which until modern times has had no county town of unquestioned pre-eminence, the first gaol was established at Faringdon. Up to 1197 this gaol is mentioned periodically, but not again until 1238 when it seems to have become a town gaol.[1] From the 'twenties to the 'fifties the chief Berkshire prison was evidently at Wallingford. though the private gaol of Reading Abbey seems to have been used as well.[2] The gaol in Windsor Castle, first explicitly mentioned in 1185,[3] long remained the home of prisoners, and in 1238 and 1240 there was a gaol at Bray.[4] Thus in the earlier thirteenth century the gaols in this small county were extraordinarily numerous. That this caused inconvenience is suggested by the fact that in 1277 the town gaol in Windsor, built in 1260,[5] was granted by charter the status of chief Berkshire gaol.[6]

Wiltshire, like Berkshire, was an acephalous county. The county court sat at Wilton, and there in 1249,[7] and perhaps later, the sheriff had his offices. The main county gaol lay some miles away upon the hill now called Old Sarum. Besides this there were prisons in northern Wiltshire, for then as now the Plain clove the county. The short-lived gaol at Malmesbury was succeeded by a gaol at Marlborough, often mentioned after 1194.[8] More rarely prisoners, even approvers,[9] were kept in the castle at Devizes.

[1] *Close R. 1237–42*, p. 69.

[2] In 1246 a man who had committed a trespass against the king in his park of Windsor was imprisoned there (*Close R. 1242–7*, p. 417). The gaol was delivered by the king's justices in 1230 and 1240. On the second occasion it apparently contained prisoners taken in Berkshire and in the honour of Wallingford as well as those from the abbot's liberty (*Pat. Rolls. 1225–32*, p. 365; *Cal. Pat. R. 1232–47*, p. 262).

[3] W. H. St. John Hope, *Windsor Castle*, i. 18, quoting Pipe Roll of 1185. There are earlier references to prisoners in the castle.

[4] *Close R. 1237–42*, p. 28; *Cal. Liberate R. 1226–40*, p. 451.

[5] *Close R. 1259–61*, p. 125.

[6] *Cal. Charter R. 1257–1300*, p. 203.

[7] *Cal. Liberate R. 1245–51*, p. 235.

[8] *Rolls of the King's Court* (Pipe R. Soc.), p. 88.

[9] *Rot. Litt. Claus.*, i. 395, 450*a* and *b*, 472*b*; *Cal. Liberate R. 1240–5*, p. 107.

Wiltshire falls into northern and southern sections, Kent into eastern and western. Accordingly it is not surprising to find two gaols in Kent in 1166, at Canterbury and Rochester.[1] Both apparently remained in indiscriminate use until in 1237 the sheriff was straitly enjoined to keep East Kentish prisoners at Canterbury and those from West Kent at Rochester,[2] a rare instance of systematic segregation on geographical lines. In 1254 we begin to meet the gaol at Maidstone,[3] which has survived into the modern world. If this was destined to replace Canterbury as the eastern Kentish gaol it did not do so immediately, for in 1260 the sheriff was told to send all his prisoners to Rochester as it was the only safe gaol in the county.[4]

Where two counties were linked together by the same sheriff the arrangements for keeping prisoners are sometimes unexpected. Essex and Hertfordshire, Warwickshire and Leicestershire, Staffordshire and Shropshire furnish the most remarkable instances. In 1166 the sheriff of Essex and Hertfordshire was allowed the cost of making two gaols.[5] Where these stood and whether in two counties or in one we do not know. Not until 1178 does it become possible to locate the gaols. They were then at Newport and Hertford.[6] Inaccessible though Newport must have been to many parts of Essex, this little market town enjoyed the advantage of lying more or less upon the borders of both counties. In 1195 works began to be done upon a gaol at Writtle.[7] This gaol continued in being for some years, while Newport gaol is not heard of after 1201. In 1205 the sum of £5 was spent on works at Hereford gaol.[8] It is tempting to believe that the gaol at Newport had been partly used for Hertfordshire prisoners and was abandoned when Writtle was opened and Hertford extended.

The gaol at Writtle also did not in the end survive. It is last heard of in 1223, when its repair was ordered,[9] and three years afterwards we find a reference to a prison at Colchester.[10] Colchester, however, did not at once become the gaol for Essex. The wording of three writs addressed to the constable of Colchester

[1] *Pipe R. 1166*, p. 111.
[2] *Close R. 1234–7*, p. 460.
[3] *Close R. 1253–4*, p. 98.
[4] *Close R. 1259–61*, p. 70.
[5] *Pipe R. 1165–6*, p. 123.
[6] *Pipe R. 1178*, p. 52. The text reads 'Hereford'.
[7] *Pipe R. 1195*, p. 217.
[8] *Pipe R. 1205*, p. 184.
[9] *Rot. Litt. Claus*, i. 542*b*.
[10] *Pat. R. 1225–32*, p. 37.

in 1234 and 1236 implies that the gaol in Colchester Castle was a makeshift.[1] Moreover in the very same years in which Essex suspects were being sent to Colchester they were also being kept at Hertford,[2] and in 1259 it was declared that the sheriff of Essex had no prison of his own and must send his prisoners to Newgate.[3] It was not indeed until 1275 that Colchester Castle was handed over to the sheriff for the express purpose of housing prisoners.[4] As to Hertfordshire prisoners, they seem mostly to have been kept at Hertford, but in the second decade of the thirteenth century Berkhamsted Castle was also being used.[5] If Hertford gaol was crowded with men from Essex it is not surprising that a supplementary prison should have been needed.

There is a difficulty about another pair of counties that shared a common sheriff, Warwickshire and Leicestershire. The first Warwickshire gaol was at Kineton and it lasted until 1192.[6] In 1186 we begin to hear of a gaol at Kenilworth,[7] and in 1200 at Warwick.[8] Probably in the early years of the thirteenth century both were used.[9] A commission to deliver Warwick gaol was issued in 1220,[10] but between 1229 and 1232 it was the gaol at Kenilworth and not at Warwick that justices were appointed to deliver.[11] It is possible that at this time Warwick gaol was under

[1] In 1234 the constable of Colchester was ordered to receive the prisoners whom the sheriff of Essex would bring to him and keep them in the castle prison (*Close R. 1231–4*, p. 499). In 1236 he was ordered to receive those prisoners whom Richard de Montfichet had taken in the King's forest, as Richard had no prison of his own (*Close R. 1234–7*, p. 295).

[2] In 1234 a man who had stolen a pig in Havering park was in prison at Hertford (*Close R. 1231–4*, p. 408). In 1236 the sheriff of Essex was ordered to bail five persons kept in Hertford prison (*Close R. 1234–7*, p. 259).

[3] *Close R. 1256–9*, p. 387.

[4] *Cal. Pat. R., 1272–81*, pp. 127, 141.

[5] *Rot. Litt. Claus.*, ii. 21; *Close R. 1227–31*, p. 369.

[6] *Pipe R. 1166*, p. 67; *1192*, p. 245.

[7] *Pipe R. 1186*, p. 126.

[8] *Pipe R. 1200*, p. 176.

[9] Warwick gaol was repaired four times between 1201 and 1214 (*Pipe R. 1201*, p. 232; *1210*, p. 89; *1211*, p. 188; *Rotuli de Finibus*, p. 548). Kenilworth gaol was in use in 1220 and in or shortly before 1221 (*Rot. Litt. Claus.*, i. 420*b*; *Rolls of Justices in Eyre for Glos, Warwicks and Staffs* (Selden Soc.), p. 350).

[10] *Pat. R. 1216–25*, p. 229.

[11] *Close R. 1227–31*, p. 239; *Pat. R. 1225–32*, pp. 366, 445, 512.

repair.[1] In or before 1235 Warwick was again delivered,[2] and after 1242 Kenilworth gaol is not heard of. It may be surmised that, on the completion of the repairs at Warwick, Kenilworth fell out of use.

A gaol for Leicestershire was early established in the royal soke of Rothley and is mentioned from time to time until 1233.[3] By 1211 there was also a gaol at Leicester,[4] and from 1243 it is frequently referred to. In 1231 all the king's lands in Rothley passed into the hands of the Templars and perhaps the prison was closed soon after.[5] It must remain uncertain whether Leicestershire prisoners went thenceforth to Leicester or whether until the early 'forties they were usually kept in Warwickshire, as was the case at the end of the century.[6] A single instance of the imprisonment of a Leicestershire man at Kenilworth in 1235 may suggest that after the restoration of Warwick gaol Kenilworth continued as a prison for Leicestershire.[7]

In 1204 Staffordshire and Shropshire, formerly separate, were linked together. After that time there are signs that the sheriff maintained several prisons and used them indifferently for either county. There had been a prison at Stafford by 1185[8] and at Newcastle by 1199.[9] Shrewsbury joins them in 1221[10] and Bridgnorth by 1235.[11] These were perhaps the four gaols, *in pluribus locis*, for which the sheriff craved allowance out of the issues of Shropshire as early as 1207.[12]

Derbyshire gaols are rarely mentioned, and as that county was linked with Nottinghamshire it is not unlikely that Derbyshire

[1] Old timber from Warwick gaol was given to St. John's Hospital, Banbury, in 1229 (*Close R. 1227–31*, p. 184).

[2] *Close R. 1234–7*, p. 108. [3] *Close R. 1231–4*, p. 215.

[4] *Pipe R. 1211*, p. 197.

[5] *Cal. Charter R. 1226–57*, p. 135. *Cf. Close R. 1231–4*, p. 514, and *1234–7*, p. 98. Thanks are due to Mr. R. A. McKinley for assistance at this point.

[6] *V.C.H. Leics*, ii. 91. [7] *Close R. 1234–7*, p. 104.

[8] *Pipe R. 1185*, p. 164. [9] *Pipe R. 1199*, p. 163.

[10] *Rot. Litt. Claus.*, i. 447*b*. [11] *Cal. Pat. R. 1232–47*, p. 124.

[12] *Pipe R. 1207*, p. 5. In the same year another gaol was mended at the expense of Staffs (*ibid.*, p. 7). As further evidence that the two counties were treated as one for this purpose it may be noted that in 1210–12 Newcastle gaol was repaired out of the issues of Salop (*Collections for a History of Staffs* (Will. Salt Soc.), ii. 157), and that in 1237 a Staffs prisoner seems to have been kept at Bridgnorth (*Close R. 1237–42*, p. 18).

prisoners usually went to Nottingham.[1] Dorset men were sometimes imprisoned in their own county, sometimes in Somerset.[2]

From this complicated narrative two conclusions can be drawn. First, from the standpoint of housing prisoners, county doublets tended to be treated as units; secondly, as the thirteenth century advanced, gaols that had been established in small and inconvenient villages were moved into safer and more populous places.[3]

It is, of course, well known that many gaols were situated behind castle walls.[4] Castles were not merely naturally convenient; their use was legally enjoined. Not only had the Assize of Clarendon declared that they were possible gaol-sites; the Assize of Northampton had subsequently provided that if a suspect thief could not be handed over to a sheriff he was to be delivered to the nearest castle-keeper, who was to hold him until the sheriff could receive him. Accordingly it is not at all surprising that on the very first occurrence of the gaols at Carlisle,[5] Chichester,[6] Gloucester[7] and Launceston,[8] all in the twelfth century, those gaols are expressly stated to have been in the castles of those places, while by 1185 the gaol at Oxford was already in the castle.[9] The gaols at Bedford and Lincoln, first named in 1166[10] and 1168,[11] were probably in castles from the outset, though they are not expressly stated to be so situated until many years later.[12]

[1] The Peak gaol is not heard of after 1202 (*Pipe R. 1202*, p. 187). The gaols at Chesterfield and Derby are each mentioned once (*Pipe R. 1196*, pp. 15–16; *Pat. R. 1225–32*, p. 160).

[2] Dorset men were imprisoned at Ilchester in 1239 (*Close R. 1237–42*, p. 162) and at Corfe in 1241 (*ibid.*, p. 382).

[3] There are no references to Cornish gaols after 1196 when Launceston last occurs (*Pipe R. 1196*, p. 139). Though Devon and Cornwall were never linked, it is possible that by a working agreement between the two sheriffs Cornishmen were imprisoned at Exeter.

[4] The author is indebted to Dr. R. A. Brown for allowing him to use his Oxford D.Phil. thesis entitled 'The Place of English Castles in the Administrative and Military Organization of the Kingdom, 1154–1216 . . .' (1953). A copy is now deposited in the Bodleian Library.

[5] *Pipe R. 1194*, p. 120.

[6] *Pipe R. 1198*, p. 225.

[7] *Pipe R. 1185*, p. 144.

[8] *Pipe R. 1187*, p. 154.

[9] *Pipe R. 1185*, p. 106.

[10] *Pipe R. 1166*, p. 11.

[11] *Pipe R. 1168*, p. 61.

[12] 'Roll of the Justices in Eyre at Bedford, 1227', ed. G. H. Fowler, in *Beds Hist. Rec. Soc.*, iii. 136; *Pipe R. 1211*, p. 69.

The gaols at Chester, Colchester, Guildford, Newcastle-under-Lyme, Shrewsbury, Wallingford and Worcester, which first emerge in the three opening decades of the next century, are subject to the same presumption.

While the evidence tends to the conclusion that very many gaols began in castles, it is equally clear that there were several places in which gaols were seated where there was, so far as is known, no castle in which to place them. Aylesbury, Ilchester, Ipswich, Rothley and Writtle are good examples. There were yet other towns in which castles certainly stood by the death of King John, but in which there is no direct evidence that the gaol was in the castle. Such were Cambridge, Hertford, Huntingdon and Warwick. There were also towns like Nottingham[1] and Hereford[2] which possessed more gaols than one, each of which cannot have been within the fortified enclosure. In the 'forties Old Salisbury is known to have had two gaols, one within the castle bailey and the other outside it,[3] while in 1228 the sheriff of Hampshire was reproved for putting prisoners into Winchester Castle instead of into the city gaol in which they 'ever used and ought to be imprisoned'.[4]

Castle and county gaol, then, were by no means inseparable. Nevertheless it is probable that towards the end of our period castles were being more freely used as prisons than they had been at the beginning. The presumption is hard to verify. It rests largely upon the increasing extent to which reference is made in the records to castles and constables, and to the abandonment of such places as Faringdon, Writtle and Rothley as gaol-centres. It is, however, an inherently reasonable presumption. As the thirteenth century wore on many castles were losing their *raison d'être*. Unattractive as residences or useless as fortresses they acquired a new value as places of detention.

[1] In the Pipe Roll of 1201 there stand side by side separate allowances to the sheriff for works upon the gaol of Nottingham and upon a gaol in Nottingham Castle (*Pipe R. 1201*, p. 89). A correction in the Liberate Roll of 1251 implies that there was still a gaol outside Nottingham Castle (*Cal. Liberate R. 1245–51*, p. 384).

[2] In 1220 justices were appointed *ad deliberand' gaolas nostras Hereford'* (*Rot. Litt. Claus.*, i. 437, checked with the MS.).

[3] In 1241 the gaol in the castle is contrasted with *forinseca gaiola* (*Close R. 1237–42*, p. 273).

[4] *Close R. 1227–31*, p. 31.

In the 1250's the custom of expressly including in borough charters a clause granting a prison to the burgesses was beginning to prevail. Canterbury was the first town, so far as is known, to receive such a grant,[1] but it must not be supposed that borough prisons had not formerly existed. The town gaol of Southampton, in which the sheriff never intermeddled, seems to have enjoyed a continuous existence from 1183, and in the same century a gaol appears to have flourished at Windsor.[2] In 1201 Nottingham and Preston[3] may be presumed to have had their own prisons. In 1224 the men of Cambridge bought a lease of the house of Benjamin the Jew for such a purpose.[4] When, fourteen years later, the grant was rescinded, the burgesses were allowed to build a new goal out of the borough farm.[5] In 1231 the citizens of Worcester were required to accommodate the prisoners of Worcestershire in the city prison while the county gaol was being repaired.[6] Between 1220 and 1250 town gaols are found at Kingston-upon-Thames,[7] Bristol,[8] Oxford,[9] Faringdon[10] and Wilton,[11] and there is no doubt that the list could be extended.

Apart from the Tower, there were two prisons in the metropolis. The 'gaol of London', to give it its original name, is first mentioned in 1156.[12] In 1197 it begins to be called the Fleet.[13] In nine fiscal years between 1156 and 1207 sums of money varying from £10 in 1156 to as much as £103 in 1190[14] were allowed for works upon it. In 1173, 1185 and 1186 Alnoth the engineer was one of those who viewed the works,[15] suggesting that major

[1] *Cal. Charter R. 1257–1300*, p. 473. Inspeximus, dated 1298, of a charter of 1256.

[2] A gaol was mended out of the borough farm (*Pipe R. 1185*, p. 25).

[3] *Curia Regis Rolls*, i. 224; *Rot. de Fin.*, p. 115; *Pipe R. 1201*, p. 272.

[4] C. H. Cooper, *Annals of Cambridge*, i. 39.

[5] *Close R. 1237–41*, p. 61.

[6] *Close R. 1227–31*, p. 567.

[7] *Curia Regis R.*, ix. 309.

[8] The bailiffs of Bristol were to cause prisoners in Bristol gaol to come before a justice of gaol delivery (*Close R. 1227–31*, p. 389).

[9] A writ about 'gaiolam regis Oxonie' is addressed to the mayor and bailiffs (*Close R. 1227–31*, p. 469).

[10] *Close R. 1237–42*, p. 69.

[11] P.R.O. Justices Itinerant, Assize Rolls, etc. (Just. Itin. 1)/996 m. 25d.

[12] *Pipe R. 1155–8.* (Rec. Com.), p. 4.

[13] *Pipe R. 1197*, p. 167. See Margery Bassett, 'The Fleet Prison in the Middle Ages', *Toronto Law Journal*, v (1943–4), 383–402.

[14] *Pipe R. 1190*, p. 156.

[15] *Pipe R. 1173*, p. 91; *1185*, p. 44; *1186*, p. 198.

construction or reconstruction was being undertaken under skilled direction. This being so, it is rather surprising that FitzStephen does not mention the prison.

In 1188 some land was bought beside Newgate for five marks and here a gaol was built at a cost of £36.[1] Whether the gatehouse was itself already in use as a prison and was extended by this new building or whether an entirely new prison was constructed which took its name from the adjacent gatehouse cannot now be said with certainty. The former seems the more likely possibility. Apart from the initial outlay the sums spent upon the prison were at first comparatively small. In the period 1189–1209 they amounted to about £50, whereas in the same period £128 were spent upon the Fleet. Perhaps in the beginning the prison was neither spacious nor secure. In 1219 orders were given to repair it, 'so that our prisoners may be safely kept',[2] and thenceforth it seems possible to detect a preference for Newgate over the Fleet. No doubt the newer establishment gained still more upon the old when, in 1236, nearly £100 was laid out in constructing a prison in the turret of the gatehouse itself.[3]

The Assize of Clarendon had laid it down that gaols should be made at the king's expense. The costs, of whatever kind, were accordingly met out of the issues of the counties. A breach with tradition occurred, however, in 1239, when the king ordered the mayor and citizens of London to bear themselves about one-third of the sum which had been defrayed in enlarging Newgate, as described above, a year or two before. This, it was represented, perhaps somewhat disingenuously, was done for 'the protection and improvement of the city'. So, it would seem, began the habit of transferring from the taxes to the rates the costs of prison maintenance. It would be interesting to trace this process in greater detail. At present it must suffice to mention that Dorchester gaol, the first Dorset prison with a continuous history, was built in or after 1305[4] at the expense of the commons of Dorset, and that in 1301 or thereabouts the men of Leicestershire themselves raised the money with which to rebuild the county gaol in Leicester.[5]

[1] *Pipe R. 1188*, p. 18. For a short history of the gaol see Margery Bassett, 'Newgate Prison in the Middle Ages' (*Speculum*, xviii (1943), 233–46).
[2] *Rot. Litt. Claus.*, i. 398. [3] *Cal. Liberate R. 1226–40*, p. 396.
[4] *Cal. Pat. R. 1301–7*, p. 317.
[5] *Cal. Close R. 1296–1301*, p. 428; *Cal. Pat. R. 1292–1301*, p. 477.

It was also declared in 1166 that gaols should be made out of the king's wood. If royal timber was not accessible then a common person's timber should be taken. It was expected, then, that gaols would be wooden and the records show consistently that this was the case. Thus the works at Newgate in 1188 were viewed by two carpenters[1] and in 1204 by a joiner,[2] and a king's carpenter assessed the works at Oxford in 1258.[3] In 1221 the lesser timber from the demolished castle at Nafferton was ordered to be taken to Newcastle-upon-Tyne in order that a gaol might be made out of it.[4] From the early 'twenties much growing timber was requisitioned for gaol building, Bernwood and Shotover forests, for example, serving as the source of supply for the gaols at Aylesbury,[5] Oxford[6] and Wallingford.[7]

Of the actual appearance of these wooden gaols or cages it is hardly possible to form any conception. Indeed the only architectural detail comes from Warwick, where in 1201 the sheriff was allowed for making a wicket and two louvers.[8] Several gaols had houses built upon, above or in front of them. There were such houses at Ipswich in 1166,[9] at Hertford in 1178,[10] at Gloucester and Norwich in 1185,[11] at Chichester in 1225[12] and at Aylesbury in 1238.[13] In each case the house may have been the gaoler's dwelling, his office or his store-room; or it may have been a place of honourable custody for persons not suspected of felony. In 1241 the gaol at York was surmounted by or abutted upon a chapel.[14]

There is little evidence of stone being used for gaol construction, though in or about 1222 payments were made to a mason for works at the Fleet,[15] and it is not unlikely that that prison had always been of stone. It was, however, an altogether exceptional building. In 1234 the cost of roofing the gaol of Windsor Castle with lead was met,[16] and round about 1241 the guardian of the

[1] *Pipe R. 1188*, p. 18.
[2] *Pipe R. 1204*, p. 93.
[3] *Close R. 1256–9*, p. 188.
[4] *Pat. R. 1216–25*, pp. 287–8.
[5] In 1234 (*Close R. 1231–4*, p. 459).
[6] E.g. in 1223 (*Rot. Litt. Claus.*, i. 540).
[7] In 1254 (*Close R. 1253–4*, p. 89).
[8] *Pipe R. 1201*, p. 232.
[9] *Pipe R. 1166*, p. 17.
[10] *Pipe R. 1178*, p. 33.
[11] *Pipe R. 1185*, p. 30.
[12] *Rot. Litt. Claus.*, ii. 50.
[13] *Cal. Liberate R. 1226–40*, p. 313.
[14] *Cal. Liberate R. 1240–5*, p. 40; *Close R. 1237–42*, p. 306.
[15] *Rot. Litt. Claus.*, i. 513*b*.
[16] W. H. St. John Hope, *Windsor Castle*, i. 59.

bishopric of Durham was paid for mending the wall of the outer gaol in Durham city.[1] In both cases something more substantial than a wooden building seems to have been under repair. There are no references to the use of metals in prison construction except at Newgate, where iron bars to mend the gaol were paid for in 1195[2] and where in 1188[3] and 1193[4] the works were viewed by Ralph the smith.

Common gaols, then, were usually wooden, flimsy and in constant need of renovation. There is evidence that this was so even when, as at Aylesbury and probably also at Warwick, the buildings were unprotected by an encircling castle wall. Much more commonly, however, as we have seen, the curtain wall of the castle was the bulwark of security, and the gaol itself was but one of the temporary structures that stood untidily within the castle yard. The walls that 'encompass our gaol of Middleham', mentioned in a writ of 1237,[5] were no doubt those of the castle. Sometimes a gaol, presumably of wood, was confined more narrowly within a castle tower. This arrangement is found at Hereford in 1241.[6]

There are, however, instances where the permanent defences of a castle were used for the confinement of malefactors. In 1254 two persons were locked up in a tower at Wallingford,[7] and in 1295–6 there was a tower at Windsor where prisoners were customarily enclosed.[8] The mural chamber that still survives in the eleventh century castle at Launceston has been taken to be such a prison.[9]

These stone buildings were perhaps the lodging places of political prisoners and others whose safety was of the first importance rather than of the common suspect. That there were stronger and weaker, less agreeable and more agreeable places of detention is evident from the 'twenties. John Blackman, arrested for ill fame about 1220, was put in Canterbury gaol. Though placed forthwith *in profundo carcere* he broke from his captivity and almost managed to escape entirely, but was caught in time and removed to a tower.[10]

[1] *Cal. Liberate R. 1240–5*, p. 58.
[2] *Pipe R. 1195*, p. 113.
[3] *Pipe R. 1188*, p. 18.
[4] *Pipe R. 1193*, p. 159.
[5] *Close R. 1234–7*, p. 502.
[6] *Cal. Liberate R. 1240–5*, p. 38.
[7] *Close R. 1253–4*, p. 126.
[8] St. John Hope, *Windsor Castle*, i. 89.
[9] S. Toy, *Castles*, p. 226.
[10] *Select Pleas of the Crown* (Selden Soc.), No. 201.

Prisoners were also graded according to their presumed criminality or their status in society, and prisons were laid out in conformity with these distinctions. It is provided in the *Dialogus* that the king's debtors, in the custody of the Marshal, shall not be chained or thrust *in ima*,[1] and that those of knightly rank shall not be closely confined at all but merely be lodged within the precincts (*in libera prisona*).[2] Such distinctions are no less obvious in the thirteenth century. Certain clerks, sent to Wallingford in 1238 for a trespass against the papal legate, were put *in fundo gaiole*, without regard to social standing.[3] Ten years later John le Poer was transferred from the 'lower' to the 'upper' prison at Oxford.[4]

Since gaols were weak their inmates needed to be fettered, and the purchase of irons (*ferramenta*) for prisoners is a common entry in the Pipe Rolls from 1194. Such an 'iron' cost *6d.* in 1211.[5] 'Rings' were ordered for Aylesbury and Bedford gaols in 1238[6] and in 1250 eleven iron collars were purchased for prisoners at York.[7] Some fetters seem to have been more painful or degrading than others, for in 1236 a prisoner in the Tower, whose lot was lightened, exchanged his 'chains' (*vincula*) for 'rings'.[8] Fetters were not always very strong; in 1220 John Blackman broke three pairs of them.[9]

Though approvers, hostages and state prisoners often received daily liveries, common prisoners were presumably neither fed nor clothed at the public expense. But their dependents were sometimes treated considerately. Thus the child of a forger, imprisoned with his father and mother, was released in 1220 because of his minority,[10] and in the 'thirties and 'forties the property of three prisoners was put at the disposal of their dependants.[11] With it they presumably supported the prisoner. In 1248, with characteristic goodness of heart, King Henry III laid out money to feed all prisoners in Newgate on the Monday after Ash Wednesday[12] and in the same year he gave a furred robe to a man who had lain unprosecuted in Oxford gaol.[13] These and other instances suggest

[1] *Dialogus de Scaccario*, ed. C. Johnson (1950), p. 21.
[2] *Ibid.*, p. 117.
[3] *Close R. 1237–42*, p. 47.
[4] *Close R. 1247–51*, p. 56.
[5] 57 cost 28*s.* 6*d.* (*Pipe R. 1211*, p. 256).
[6] *Cal. Liberate R. 1226–40*, p. 313.
[7] T. P. Cooper, *History of the Castle of York* (1911), p. 93.
[8] *Close R. 1234–7*, p. 324.
[9] *Select Pleas of the Crown*, No. 201.
[10] *Curia Regis R.*, ix. 200–1.
[11] E.g. *Close R. 1234–7*, pp. 449, 479.
[12] *Cal. Liberate R. 1245–51*, p. 168.
[13] *Ibid.*, pp. 196–7.

that prison life was not always disfigured by inhumanity. Imprisonment was hardly a punishment at this time, though it was already inclining in that direction, and Bracton condemned those gaolers who confined their charges in chains.[1]

There are some signs, towards the end of our period, that the segregation of common felons from civil trespassers, demanded by later reformers, was beginning to exhibit itself. This is most evident in the prisons of London, where eventually the Fleet was used for civil trespassers, Newgate for felons and the Tower for prisoners of state. It is true that segregation was by no means strict; homicides,[2] thieves[3] and forgers[4] could still be imprisoned in the Fleet in the 'forties and as late as 1231 an approver was sent there.[5] By the early 'forties, however, it seems that the malefactors in the Fleet were often of special types. Thus in 1241 those taken in a conflict between the English and the Flemings at Boston Fair went to the Fleet,[6] and three years later the keeper of that prison was ordered to receive a Welshman.[7] Moreover, from the 'thirties the prison was beginning to be peculiarly the place to which the king's debtors were committed pending the fulfilment of their obligations. In 1237 the defaulting collector of an aid was so committed and many followed him.[8]

Much more work would be needed before it would be possible to establish to what uses the Tower was put at this time. No doubt from the first it was pre-eminently the place for the more exalted type of prisoner, but in 1222 it contained a common homicide[9] and next year a man who had robbed Flemish merchants.[10] In the 'thirties and 'forties many Jews were confined within it, though not to the entire exclusion of other gaols.

Until the middle of the century Newgate was evidently a dumping-ground for every type of prisoner. Nor was it a mere city gaol; men and women were sent there constantly from the other prisons of southern England, no doubt to stand their trial at Westminster. But in the 'sixties its future character as a felons' prison begins to be revealed. In 1264 the constable of the Tower

[1] Bracton, *De Legibus . . . Angliae*, ed. G. E. Woodbine (New Haven, 1922), ii. 299.
[2] *Cal. Liberate R. 1240–5*, p. 52.
[3] *Close R. 1237–42*, p. 403.
[4] *Cal. Liberate R. 1226–40*, p. 490.
[5] *Close R. 1227–31*, p. 529.
[6] *Cal. Liberate R. 1240–5*, p. 36.
[7] *Ibid.*, p. 228.
[8] *Select Cases in the Exchequer of Pleas* (Selden Soc.), No. 46.
[9] *Rot. Litt. Claus.*, i. 515.
[10] *Ibid.*, p. 555*b*.

was ordered to receive certain men captured in the civil war, who up to that time had been kept in the prison of the sheriffs of London—presumably Newgate—'where thieves are imprisoned'.[1]

Criminous clerks were not supposed to be kept in royal prisons, but were usually handed over to the spiritual power with due solemnity. But diocesans seem to have met with difficulties in securing separate accommodation, and in the 'thirties and 'forties the Crown itself came to the rescue. Thus in 1232 the sheriff of Herefordshire was bidden to accommodate three clerks for the bishop of Hereford.[2] A similar but more striking instance comes from Oxford, where in 1231 the mayor and bailiffs were required to house members of the university in the town prison.[3] In 1236 the constable of the castle, in his turn, had to admit scholars into the county gaol.[4] In 1244, by an even more curious arrangement, the sheriff of Oxford was ordered formally to surrender to the representatives of the bishop of Lincoln members of the university housed in Oxford Castle and in the town, and then to lend the castle prison to the bishop to accommodate those very clerks.[5] In 1235 the king actually made over Nottingham Castle gaol to the archbishop of York for the reception of clerical malefactors.[6]

At this period most gaols were not merely in the nominal but the effective custody of sheriffs. Where, however, a gaol was in a castle and that castle entrusted to a constable, it was the growing practice in the thirteenth century to place upon the constable the responsibility for the safety of the prisoners. Besides the sheriffs and constables there were two special gaolers who enjoyed an equivalent authority. They were the keepers of the Fleet and Newgate. Their status is attested by the practice of the Crown in addressing them direct. Moreover from 1189 the keeper of the Fleet also kept the Old Palace of Westminster, an important charge, and in the thirteenth century had bailiffs and servants of his own.[7]

The office of keeper or warden of the Fleet has been closely analysed by Mr. Clay.[8] He has shown that it was held in 1130 by

[1] *Close R. 1261–4*, p. 410.
[2] *Close R. 1231–4*, p. 174.
[3] *Close R. 1227–31*, p. 469.
[4] *Close R. 1234–7*, p. 514.
[5] *Close R. 1242–7*, pp. 241–2.
[6] *Close R. 1234–7*, p. 143.
[7] E.g. *Rot. Litt. Claus.*, i. 34*b*.
[8] The history of the custody of the Fleet is drawn from C. T. Clay, 'The Keepership of the Old Palace of Westminster', *Eng. Hist. Rev.*, lix (1944), 1–21.

Ralph Arborarius at a fee of 5*d.* a day and has plausibly surmised that Ralph's descendants kept it until 1164. Thenceforth the names of the keeper or keepers are unknown, until in 1189 the office was granted by charter to Osbert de Longchamp, the chancellor's brother, who held it until 1197. The line of Ralph Arborarius was then restored in the person of Nathanael of Leaveland and he and his descendants held the office in unbroken inheritance until 1558. Nathanael and his son Robert, who succeeded him, claimed, though perhaps without justification, that their ancestors had occupied the keepership from the Conquest. Certainly it was an office of ancient origin and in 1204 was stated to be held in serjeanty.

Besides the Fleet there were at least four other prisons where the keepers held in fee. Not unexpectedly Winchester is one of them.[1] It seems that some time towards the end of the twelfth century the constable of Winchester granted Winchester gaol to Alan of Bramdean *ut custos*, and that the custody passed to Alan's brother.[2] Richard I gave it with an estate of 100 solidates in Bramdean to William of Hoo. In 1200 Henry of Bramdean, Alan of Bramdean's nephew, claimed the custody, but not the lands, as his inheritance.[3] He lost his case,[4] and William de Hoo presumably remained in possession. In 1204 the custodies of the gaol and of the houses and gate of Winchester Castle, were purchased by Matthew of Wallop, and with them went some land in Woodcote and Preston Candover.[5] Woodcote is a manor in Bramdean and is evidently the equivalent of the 100 solidates that William of Hoo had once enjoyed. Although his right was not uncontested Matthew died seised of the gaol in 1227. The gaol and gaol-lands were then given to Warin, son of Geoffrey.[6] Both in status and responsibility he was probably his predecessor's inferior.[7] Two or three times in the years from 1230 to 1232 Warin let some of

[1] The history of the custody of Winchester gaol is traced with fair accuracy in *V.C.H. Hants*, iii. 46–7, but the account that follows contains some additional information.

[2] *Curia Regis R.*, i. 117.

[3] *Rot. de Oblatis*, p. 18.

[4] *Curia Regis R.*, i. 117.

[5] *Rot. Chartarum*, p. 126; *Rot. Litt. Pat.*, p. 39*b*; *Pipe R. 1204*, p. 129.

[6] *V.C.H. Hants*, iii. 46.

[7] Matthew of Wallop had been twice addressed by the king direct, once in the second person plural (*Rot. Litt. Pat.*, pp. 73*b*, 129). After his time orders were issued through the sheriffs of Hants.

his prisoners escape and forfeited the custody in consequence.[1] Though the property was restored on each occasion Warin was displaced early in 1233 by Thomas de Blancmuster, who held the prison first at a yearly fee of £10[2] and subsequently with the customary lands.[3] Later in the same year William of Hoo was for a short time restored and then was once again replaced by Thomas de Blancmuster.[4] By 1242 Robert of Hoo had become keeper.[5] He granted the gaol and gaol lands in fee to Niel son of Robert of Winchester, and Henry III confirmed the grant in 1246.[6] In 1249 Niel regranted the manor to Robert of Hoo for life. Evidently he predeceased Niel and gaol and lands reverted to the donor, who, under the name of Niel Becke or Beket, died seised of them in 1270. The manor of Woodcote then descended in the Beket family for many generations and was continuously held by the same serjeanty.[7]

The keepership of the Fleet was an office held heritably in return for an annual payment out of the issues of London. The keepership of Winchester gaol was also at times held heritably, but in this case the reward was not in cash but in lands. There is some reason to believe that these lands, a member of the manor of Bramdean, had been attached to the keepership from early times. At least it was stated in 1219 that Henry of Bramdean held 20*s*. worth of land in Bramdean from the Conquest by the custody of the gaol.[8] This claim, like Leaveland's to the Fleet, may not have been literally true, though its credibility is somewhat enhanced by the fact that Bramdean was held in 1086 by Miles the porter, and that between 1204 and 1227 the custody of the castle gate was united with that of the gaol.[9]

The other three gaolerships in fee were associated with Worcester,[10] Salisbury[11] and Exeter. A little information can be gathered

[1] *Close R. 1227–31*, pp. 362, 516; *1231–4*, pp. 124, 185–6.
[2] *Cal. Liberate R. 1226–40*, p. 214.
[3] *Close R. 1231–4*, p. 184.
[4] *Ibid.*, pp. 282–3, 349.
[5] *Pipe R. 1242*, ed. H. L. Cannon, p. 270.
[6] *Cal. Charter R. 1226–57*, p. 295.
[7] *V.C.H. Hants*, iii. 47.
[8] *Book of Fees*, p. 259.
[9] *V.C.H. Hants*, iii. 46–7; *Rot. Litt. Claus.*, ii. 168.
[10] In 1221 Michael the porter was gaoler in fee (*Rolls of Justices in Eyre in Lincs and Worcs 1218–21* (Selden Soc.), p. 610).
[11] William le Champiun was gailor in fee of Salisbury Castle gaol before 1249 (P.R.O. Justices Itinerant, Assize Rolls, etc. (Just. Itin. 1)/996 mm. 23 and 25).

about the last of these. Before 1226 John the Porter had held Bicton in Devonshire by the service of keeping Exeter gaol. He was succeeded by his brother William who forfeited the serjeanty.[1] The keepership was thereupon committed during pleasure to Ralph called both le Petit and the Norman, an arbalister, but John the Porter's relict, who had remarried, was allowed to hold the land in dower.[2] This arrangement did not last long, for in July 1227, only five months after the foregoing licence had been issued, Ralph had been granted the gaolership in fee and orders were issued for delivering seisin to him of the lands belonging to the office.[3] He died in or about 1259 seised of 2 carucates in Bicton held by the service of keeping Exeter gaol.[4] In 1284–6 the town of Bicton was in the hands of Geoffrey le Arblaster, presumably a descendant of Ralph, holding by the same serjeanty.[5]

It seems fairly clear that these heritable custodies were disliked by the Crown. Both at the Fleet and at Winchester the inheritance was broken, and in the case of Winchester it is known that this was done because the hereditary gaoler was inefficient. Three gaolerships, granted at first during pleasure, were soon converted to securer tenures. The tug of feudalism was strong.

The tenacity with which certain persons or families clung to these freehold offices is of course partly accounted for by the value of the territorial appurtenances. Besides this, no doubt, there were fees to be collected from prisoners which made the offices worth purchasing. Thus in 1199 Walter son of Aubrey bought Salisbury gaol and Warin the porter similarly acquired the gaol of Lancaster.[6] Both gaolers, however, are soon lost to sight and never established hereditary interests.

Much more commonly gaolers were the sheriff's hirelings paid by the day. The first instance comes from Nottinghamshire where in 1203 Sewall the gaoler received a little under 1*d.* a day for just under five months' custody.[7] Paid gaolers were also employed in Sussex in the 'twenties,[8] at Chester[9] and Durham,[10] and in Bedfordshire, Buckinghamshire and Staffordshire[11] in the 'thirties, and

[1] *Rot. Litt. Claus.*, ii. 163.
[2] *Ibid.*, pp. 161, 172*b*.
[3] *Ibid.*, p. 193.
[4] *Cal. Inq. Post Mortem*, i. 117.
[5] *Feudal Aids*, i. 325.
[6] *Pipe R. 1199*, p. 177; *Rot. de Oblatis*, p. 33.
[7] *Pipe R. 1203*, p. 164.
[8] *Rot. Litt. Claus.* ii. 127*b*; *Cal. Liberate R. 1226–40*, p. 20.
[9] *Cal. Liberate R. 1226–40*, p. 348.
[10] *Ibid.*, p. 369.
[11] *Ibid.*, p. 420; *Pipe R. 1230*, p. 232.

at Warwick in 1242.[1] After 1226 two paid gaolers were commonly kept at York prison.[2]

The rates of pay at all prisons and throughout the period normally ranged from 1*d.* to 1½*d.* a day. This is poor pay and suggests that in general gaolers were either of low condition or that they looked upon their wages as only a part of their emoluments. Probably the latter is the truer. Walter son of Aubrey could afford to pay £5 for the gaol at Salisbury. At about the same time another Walter, a gaoler living in Oxford, purchased three messuages of the abbot of Oseney.[3] The bestowal of Exeter gaol upon so skilled an artisan as an arbalister indicates the type of man whom these posts attracted or who commended themselves to the authorities.

Many gaolers were gatekeepers—a fact which need not surprise us when we remember that a town or castle gatehouse was often enough a place of custody. William *portarius*, otherwise *janitor*, who in 1183 viewed the works at Faringdon gaol, was probably its keeper,[4] as was Alan de Porta who viewed those at Launceston in 1196.[5] We have already noticed the association between gaols and gatekeeping at Winchester and Lancaster in the twelfth century and at Exeter in the early years of Henry III. The association continues into later years, for in 1238 the gaoler of Chester was also gatekeeper of the lower castle[6] and in 1254 the porter of Wallingford Castle was in charge of prisoners.[7] The first named gaoler of York (1280), who seems to have been a bellringer, was also granted custody of the castle gate.[8]

In 1203 the sheriff of Warwick bought a plot of ground before the gaol at Warwick 'to hold the pleas of the gaol'.[9] This isolated reference suggests that the systematic process of delivering gaols had already begun and moreover that it was a frequently recurring operation, more frequent than the general eyre, of which of course gaol delivery formed a part. It is not, however, until 1220

[1] *Pipe R. 1242*, p. 177.
[2] T. P. Cooper, *History of the Castle of York*, pp. 92–3.
[3] *Oseney Cartulary*, ed. H. E. Salter (Oxf. Hist. Soc.), ii. 395 (no. 984).
[4] *Pipe R. 1183*, p. 134.
[5] *Pipe R. 1196*, p. 139.
[6] *Cal. Liberate R. 1226–40*, p. 348.
[7] *Close R. 1253–4*, p. 126.
[8] He was called Henry le Esqueler (Cooper, *op. cit.*, p. 298).
[9] *Pipe R. 1203*, p. 28.

that commissions to justices of gaol delivery began to be enrolled in Chancery, and their composition can be studied.[1]

With the delivery of the gaol in which he was confined the prisoner's career as a prisoner culminated. The rise and early development of this special system of judicial visitation deserve as much attention as has been devoted to other aspects of prison life. Their description, however, would be laborious and intricate and must be left until a later day.

[1] The first commissions enrolled are for the delivery of the gaols at Warwick, Leicester and Hereford (*Pat. R. 1216–25*, p. 229; *Rot. Litt. Claus.* i. 437).

EAST ANGLIA AND THE DANELAW

By R. H. C. Davis, M.A., F.S.A.

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IT has been, and still is, the considered opinion of many scholars that the freemen and sokemen who figure so prominently in the Domesday Survey of the northern and eastern counties of England were the descendants of the rank-and-file of the Danish armies of the ninth century. The theory is not based on any precise knowledge of Scandinavian peasant-society in the ninth century, but on the geographical distribution of the free peasantry in England. It was first propounded by E. W. Robertson in 1862:

> In the Danelage, . . . omitting Yorkshire from the calculation, between a third and a fourth of the entire population were classified either as *liberi homines* or as socmen. . . . Free Socage, the very tenure of which is sometimes supposed to have been peculiarly a relic of Anglo-Saxon liberty, appears to have been absolutely unknown except among the Danes.[1]

Steenstrup was delighted by the theory,[2] Seebohm illustrated it with a map,[3] and Vinogradoff elaborated the details:

> The remarkable congestion of these small freemen in the Danish districts, both in small farms or hamlets and in large

[1] E. W. Robertson, *Scotland under her Early Kings* (1862), ii. 269 ff., and compare ii. 458–9. The figures on which he bases his argument are given on ii. 274, and are:

	Tenentes in capite	Mesne lords	Socmanni	Liberi homines	Villani	Bordarii	Servi
Wessex . . .	948	3,037	44 (Kent)	0	45,860	36,876	14,829
English Mercia.	321	1,335	0	132	18,692	11,458	5,496
Southumbrian Danelage .	764	3,423	22,700	12,233	38,645	39,360	6,497

[2] J. C. Steenstrup, *Normannerne*, iv (Copenhagen 1882), 102 ff.

[3] F. Seebohm, *The English Village Community* (1883), pp. 85ff.

villages, has evidently to be explained by the recent Danish conquest, which introduced large numbers of warriors of the *here*, who had after the settlement to provide for their own subsistence, and who, although very much lowered by their humble condition and scanty outfit, were still proud of their freedom, and able to keep it up.[1]

The theory of this Arcadian demobilization still holds the field. But although detailed research has given it greater clarity and definition in certain districts such as Lincolnshire, the foundation of the theory as a whole is still necessarily geographical. To quote Sir Frank Stenton:

> It cannot be an accident that a social organization to which there is no social parallel elsewhere in England occurs in the one part of the country in which regular development of native institutions had been interrupted by a foreign settlement.[2]

The theory has had to face powerful critics. Stubbs, though impressed, considered that 'the differences between the customs of the Danelaga and those of the rest of England . . . might almost with equal certainty be ascribed to the distinction between Angle and Saxon'.[3] Maitland too was sceptical:

> But in truth we must be careful how we use our Dane. Yorkshire was a Danish county in a sense that Cambridgeshire was not Danish; it was a land of trithings and wapentakes, a land without hides, where many a village testified by its name to a Scandinavian settlement. And yet to all appearance it was in the Confessor's day a land where manors stood thick. Then we have that wonderful contrast between Yorkshire and Lincolnshire which Ellis summed up in these figures:

	Sochemanni	Villani	Bordarii
Lincolnshire	11,503	7,723	4,024
Yorkshire	447	5,079	1,819[4]

It is, in short, difficult to explain why Yorkshire had so few free peasants, but some reasoned explanation might be found for the anomaly if it were not for a further difficulty—the suspicion that

[1] P. Vinogradoff, *English Society in the Eleventh Century* (1908), p. 417.
[2] F. M. Stenton, *Anglo-Saxon England* (1943), p. 511.
[3] W. Stubbs, *The Constitutional History of England* (6th ed., 1897), i. 216.
[4] F. W. Maitland, *Domesday Book and Beyond* (1897), p. 139.

there was no appreciable settlement of Danish soldiers of the rank and file in East Anglia. This could be a serious matter, for in the counties of Norfolk and Suffolk the free peasantry formed, in 1086, a larger percentage of the population, 41·4% and 45·4% respectively, than in any other county except Lincolnshire, where the proportion was 50·7%. These counties might therefore have been expected to be particularly Danish. If this were not in fact the case, if in addition to the anomaly of Yorkshire (that was Danish but not free) there was to be the anomaly of East Anglia (that was free but not Danish), the whole theory that explained the origin of the free peasantry by reference to Danish soldier-peasants would be severely shaken. It is for this reason that it is proposed in this paper to investigate the problem of whether or not East Anglia was systematically settled by the rank-and-file of the Danish armies of the ninth century.

The arguments that have been put forward by various scholars to show that there was such a settlement in East Anglia can best be summarized *en bloc* as five propositions. First, the evidence of the Anglo-Saxon Chronicle is said to be specific on the point in its statement that in 879 the Danish army went from Cirencester to East Anglia and 'occupied the land and shared it out'. Secondly, evidence derived from thirteenth-century deeds has been held to suggest that the Danish army had, in sharing the land out among its members, divided it into units of $12\frac{1}{2}$ acres which were known as bovates or *manslots*, this last word being of Scandinavian origin and denoting 'a man's share'. Thirdly, the fact that in the late eleventh and early twelfth centuries many free peasants in East Anglia bore names that were of Scandinavian origin would seem to argue that these peasants were themselves Scandinavian by race. Fourthly, the Scandinavian element in East Anglian place-names, though not as strong as in Lincolnshire, and though somewhat puzzling in its details, is thought to support the theory of a peasant settlement, at any rate in Norfolk. Fifthly, it is claimed that since the free peasantry was particularly numerous in the Broadland where the place-names are outstandingly Scandinavian, there is a *prima facie* case that in East Anglia the free peasantry can be explained only in the light of the Scandinavian settlement of the ninth century.

These five propositions are sufficiently important to merit detailed attention.

First there is the evidence of the Chronicle. This leaves no doubt as to the fact that the Danes conquered East Anglia and ruled it for thirty-eight years (879–917). The Dane who first *gesæt* or 'took possession of' it was Guthrum, the northern king who had, after his defeat at Edington (878), received baptism and the baptismal name of Athelstan, with Alfred standing as his godfather.[1] But though the Chronicle is thus far specific, it gives no clue as to the nature of the Danish settlement. It does not say how many Danes were involved, nor whether they settled in East Anglia in such force as to give to that country not only new Danish lords but also a new Danish peasantry. All it states is that in 879:

> *Her for se here of Ciren ceastre on East Engle 7 gesæt pæt lond 7 gedælde.*[2]
> In this year the host went from Cirencester into East Anglia and took possession of the land and divided it.

The verb *gedælan* means 'to divide' and in the present context it suggests that the Danes divided the land in the same way as they might have divided an inheritance or divided the spoils. The division might have been into units of any size, smallholdings, large estates, or even administrative districts such as those that 'owed allegiance' (*hyrde*) to fortified towns like the Five Boroughs in the Northern Danelaw, or Huntingdon, Cambridge and Colchester in the Eastern Danelaw. Modern scholars have preferred the suggestion of a minute division, and have translated *gedælan* as 'to share out', thus evoking some primitive system of land-sharing whereby every Danish soldier might have received 'a man's share' of land. In the tenth century, however, the ealdorman Æthelweard understood the passage in a different sense. He put it into Latin as follows:

> *Elevatus est praedictus exercitus, relicto Cyrenceaster, ad Orientalium Anglorum partes, castramentatique sunt ibi, omnesque habitatores illius terrae sub iugo imperii sui duxere.*[3]
> The aforesaid army got up and left Cirencester and went to

[1] *Two of the Saxon Chronicles Parallel*, ed. C. Plummer (1892), *s.a.* 890.
[2] *Ibid.*, *s.a.* 880. Compare F. M. Stenton, *The Danes in England* (British Academy, 1927), pp. 4–5.
[3] *Monumenta Historica Britannica*, ed. H. Petrie (1848), p. 516.

East Anglia; and they built camps (or fortresses or boroughs) there and put all the inhabitants under the yoke of their empire.

A great advantage of this interpretation is that it does not strain the imagination in regard to the size of Guthrum's army. If the freemen and sokemen of East Anglia had been the descendants of his Danish soldiers, it would have been necessary to explain how it was that the army which in 878 had wintered at Cirencester had so multiplied on its removal to East Anglia that by 1066 its progeny numbered 20,372 households, or more than 40% of the rural population.[1] Could it have been due to the effects of the climate on the Danish soldiers of the rank and file? Or would it be necessary to postulate that Danish armies were normally counted by tens of thousands, with hordes of horses and shoals of ships?

The second proposition has been put forward by Professor Douglas, and is that the peculiar tenemental organization found in East Anglia in the thirteenth century can be explained only by reference to a 'Scandinavian system of land-sharing'.[2] There is, of course, no disputing that the tenemental organization of East Anglia had many peculiar features; all that is questioned is whether these peculiarities really suggest that the Danes had 're-arranged the tenemental organization of the conquered people'.[3] It has been claimed, for example, that the basic units of land held by peasants in East Anglia were all, whether called *tenementa*, *plenae terrae*, *eruings*, *toftlands*, *landsettagia*, *tenmanloths* or even *carucates*, 'derived from a single primitive holding, and that this was a Danish bovate whose normal size was 12½ acres' and which 'was itself the *manloth* or "man's share" '.[4] The difficulty is to find the 'normal' bovate in East Anglia. Tenements of twelve acres are not very hard to find, but on Professor Douglas's own showing tenements of exactly 12½ acres are rare, even in the thirteenth century. In earlier periods they are even rarer. In Domesday Book the commonest peasant tenements are of 15 and 30, 20 and 40, or 8 and 16 acres.[5] Before the Norman Conquest, in a will of *c.* 1022–43,

[1] The figures are from Barbara Dodwell, 'The Free Peasantry of East Anglia in Domesday', *Norfolk and Norwich Archaeological Soc.*, xxvii. 148.

[2] D. C. Douglas, *The Social Structure of Mediaeval East Anglia* (Oxford Studies in Social and Legal History, vol. ix, 1927), p. 50.

[3] Douglas, p. 49.

[4] Douglas, p. 50.

[5] Dodwell, *art. cit.*, p. 154.

there is mention of a *girde* which is a yardland or virgate, while larger units of land were calculated in hides.[1] In short, the twelve-and-a-half-acre unit does not seem to have been either general or ancient. Even if it had been, it is hard to see how it could have been a bovate. For a bovate was one-eighth of a carucate, and all the evidence goes to show that a carucate contained not 100 acres (which would be $8 \times 12\frac{1}{2}$), but 120 (8×15).[2] Similarly it is not really possible to equate the East Anglian leet with the 12-carucate-hundreds of Lincolnshire, since the equation rests not only on the belief in a $12\frac{1}{2}$-acre bovate but also on the assumption that every hundred contained 120 carucates, though in Suffolk the actual number varied from 20 to 209, and that the 'typical leet' contributed one-twelfth of the hundred's geld, though the size of the leets varied, in fact, quite considerably.[3] Nor would it be wise to draw elaborate conclusions from the use of the word *tenmanloths* in the Norfolk village of Walpole. The word has not, I believe, been found elsewhere in East Anglia, and the tenement which it described may well have been exceptional, since Walpole was both close to the Lincolnshire border and in the Fenland, where land-reclamation may have created special conditions in the eleventh and twelfth centuries.[4] The only Danish influence to be found at all commonly in the Domesday Survey of East Anglia is the calculation of rents in units of 16*d.* or Danish *orae*; but this

[1] *The Kalendar of Abbot Samson of Bury St. Edmunds*, ed. R. H. C. Davis, (Camden Third Series, vol. lxxxiv, 1954), p. xliii; D. Whitelock, *Anglo-Saxon Wills* (1930), no. xxvii (*c.* 1022–43).

[2] G. J. Turner, *A calendar of the feet of fines relating to the county of Huntingdon* (Cambridge Antiq. Soc., 1913), pp. lxxxiii ff., based an argument in favour of the 100-acre carucate on a passage from Roger of Hoveden (*R.S.*, iv. 46–7) which he seems to have misunderstood. The passage (also printed in Stubbs' *Select Charters* (9th ed.), pp. 249–50) describes the sharp practice whereby, for the aid of 1198, 5*s.* was levied, not from each carucate or hide, but from the 'wainage of a plough' which was declared to be 100 acres.

[3] The carucage of Suffolk hundreds is given by Miss B. A. Lees in the *Victoria County History*, *Suffolk*, i. 360. For leets (or letes) see C. Johnson in *Victoria County History*, *Norfolk*, ii. 204–11, and *The Kalendar of Abbot Samson*, pp. xv–xxx.

[4] Douglas, pp. 29–30. Cf. Tait in *E.H.R.*, xliii. 94–7. For land-reclamation in the district, see E. Miller, *The Abbey and Bishopric of Ely* (1951), p. 95. In the Broadland, where (in contrast to the Fenland) Scandinavian place-names are common, the tenement is called by English or Latin names (e.g. *eruing*).

is only what one would have expected in a land where the landlords or nobility had been Danish.

We proceed therefore to the third proposition, that the personal names of East Anglian peasants in the eleventh and twelfth centuries show them to have been of Scandinavian origin. It is undoubtedly true that about 10% of the personal names recorded in the twelfth-century portion of the Register of St. Benet of Holme are names of Scandinavian origin; similarly, Professor Douglas was certainly not overstating the case when he claimed that of the freemen and sokemen listed in the 'Feudal Book' of Abbot Baldwin of Bury St. Edmunds, 8½% bore Scandinavian names.[1] It is, however, a complete delusion to think that every man with a Scandinavian name was of Scandinavian origin. Professor Ekwall has shown that people of the same family often bore names of different provenance.[2] In East Anglia, for example, Stigand (whose name was Scandinavian) had a brother called Æthelmær. According to the *Liber Eliensis*, there was in the tenth century a priest called Athelstan whose brothers were called Ælfstan (English) and Bondo (Scandinavian).[3] Earlier still, Guthrum, the Danish king who first occupied East Anglia, struck pennies on which he used, not his heathen name, but his Christian name, Athelstan; it did not make him an Englishman. Sure proof that the examples here quoted are not exceptional comes from the records of Bury St. Edmunds. At the end of the eleventh century, less than one-tenth of St. Edmund's freemen and sokemen bore Scandinavian names, and about nine-tenths of them bore English names, such as Ædric, Cenric, Godman, or Æluric Halleman; but by the end of the twelfth century something between one-half and three-quarters of their descendants bore names that had been introduced by the Normans: William, Robert, Henry and the like.[4] Remarkable

[1] J. R. West, *St. Benet of Holme, 1020–1210* (Norf. Rec. Soc., nos. ii and iii. 1932), pp. 258–9, and D. C. Douglas, *Feudal Documents from the Abbey of Bury St. Edmunds* (1932), p. cxx. In the case of St. Benet of Holme, 75% of the twelfth-century names were of post-Norman origin or else neither definitely Old English or Scandinavian in origin. Of the remaining 25%, the proportion of Scandinavian to Old English names was 58:81.

[2] E. Ekwall, 'The proportion of Scandinavian settlers in the Danelaw', *Saga Book of the Viking Society*, xii. 22.

[3] *Liber Eliensis*, ed. D. J. Stewart (1848), pp. 128, 149.

[4] Compare the lists in Douglas's *Feudal Documents*, pp. 25–44, with those in *The Kalendar of Abbot Samson*, pp. 1–72. See also the list of religious said

as the Normans were, they had not bred a new race of Suffolk peasantry; they had simply started a new fashion in names.

We may turn, then, to the fourth proposition, which is more serious, the evidence of place-names. This evidence cannot be assessed in detail until the English Place Name Society's surveys of Norfolk and Suffolk are complete, but the more general surveys of Skeat and Ekwall are not likely to need serious revision.[1] The general outline that they have established is that while in Suffolk only about 6% of the village names have Scandinavian elements, in Norfolk the proportion is higher. Even Norfolk, however, has a far smaller and weaker Scandinavian element in its place-names than counties such as Lincolnshire and Yorkshire; for the total number of Scandinavian names is smaller in Norfolk than in those two counties, and most of them are not of pure Scandinavian type, but are *thorpes* or Anglo-Danish hybrids. Both the addition of *thorpe* to an English place-name (e.g. *Shouldham Thorpe*) and the creation of hybrid place-names (e.g. *Grimston*) are characteristic of districts where Scandinavian settlement was not intense.

> They point (writes Sir Frank Stenton) to a state of society in which the immigrants from the North formed a minority of the population, dominant, but too small to impress a purely Scandinavian character on the names given to estates.[2]

But in one district, the Broadland, the situation is different. There, especially in the two hundreds of Flegg, there is a concentration of villages with names of the purest Scandinavian type—Ashby, Oby, Billockby, Clippesby, Stokesby, Herringby, Thrigby, Filby, Ormesby, Hemsby and Rollesby—and a considerable number of Scandinavian field-names. In this district, therefore, there would seem to have been a Scandinavian settlement of some intensity. But that settlement need not necessarily

by Hermann to have been attendant on St. Edmund's shrine *c.* 925–39: Leofric the deacon, Leofric the priest, Alfric the priest, Bomfild the priest, Kenelm the deacon, Eilmund the priest, and Adulf, later bishop of Elmham (*Memorials of St. Edmund's Abbey*, ed. T. Arnold, Rolls Series, i. 30).

[1] W. W. Skeat, *The place-names of Suffolk* (Camb. Antiq. Soc. 1913); E. Ekwall in *Introduction to the Survey of English Place Names* (Place Name Soc., vol. i, pt. i, pp. 81–2), and in H. C. Darby, *An Historical Geography of England before 1800 A.D.* (1948), p. 151.

[2] F. M. Stenton, 'The Scandinavian Colonies in England and Normandy', *Trans. Roy. Hist. Soc.*, 4th series, xxvii (1945), 10.

have been made in the ninth century or by the Danish soldiers of the rank and file. Indeed the Broadland, with its great extent of marsh, is not a district in which we would have expected the Danish army to settle when it first took possession of East Anglia, for, as Professor Ekwall put it, 'the victorious army', coming as it did from Cirencester, 'would not march right through Norfolk and settle on the lower Waveney'.[1] An even greater difficulty is that the Chronicle would give us to understand that the main Danish bases in East Anglia were not in Norfolk but at Cambridge and somewhere in the region of Colchester. Danish ships were to be found at the mouth of the Stour,[2] Harwich (though a name of English formation) means 'army-dwelling' and may have been a Danish camp,[3] and Guthrum, according to the Annals of St. Neots, was buried at Hadleigh in Suffolk, ten miles from Ipswich and twelve from Colchester.[4] Just as the fall of Huntingdon led to the submission of the Danish army at Cambridge, so the fall of Colchester led to the submission of the Danish army in East Anglia—a natural occurrence if the Danish base was in that region, but most unnatural and inexplicable if it was more than fifty miles away in the Broadland.

In consequence, Professor Ekwall has suggested two alternative theories to explain the place-names of the Broadland. The first is that though the place-names denote a Scandinavian settlement, the settlement was not made by the Danish army but by 'a later influx of Scandinavian settlers who might have been induced to come over after the conquest had been made by the army'. The second, not necessarily incompatible with the first, is based on the theory, confirmed by the archaeology of the area, that the low-lying parts of the Broadland were 'probably not much inhabited before Scandinavian times'.[5] Elsewhere in Norfolk, if Danes became lords of

[1] *Introduction to the Survey of English Place Names* (Place Name Soc., 1924), p. 82.

[2] *Chronicle*, *s.a.* 885.

[3] P. H. Reaney, *The Place Names of Essex* (P.N.S., 1935), p. 339.

[4] *Asser's Life of King Alfred*, ed. W. H. Stevenson (1904), p. 140.

[5] Ekwall in *Introduction to the Survey of English Place Names*, pp. 81–2. The villages with the highest land in two hundreds of Flegg have English names, Caister, Winterton, Somerton and Martham. Except at Caister and Yarmouth, there is no evidence of pre-Scandinavian settlements in these two hundreds. See *Victoria County History*, *Norfolk*, vol. i, and Rainbird Clarke, 'Norfolk in the Dark Ages, 400–800 A.D.', *Norfolk and Norwich Archaeological Soc.*, xxvii (1939–40), 163–249.

existing villages, the English villagers would not change the name of their village; but if a Scandinavian lord reclaimed land and made a village where previously there was none, it might well have become known as his *by*. The *by* names of this region (with the single exception of Stokesby) are compounded with Scandinavian personal names which would seem to refer, not to peasants, but to the lords or owners of the villages. There is no reason why the villagers themselves should not have been English. But whatever be the explanation of these place-names, it must be remembered that according to their evidence the Broadland is the part of East Anglia where Scandinavian influence is strongest.

It is this fact that the fifth of our propositions attempts to explain, for Miss Barbara Dodwell has pointed out that it is in this very area, and especially in the two hundreds of Flegg, that one of the greatest concentrations of free peasantry is to be found. She has therefore concluded that

> the exceptionally large number of free peasants, *liberi homines* and sokemen, recorded in the Domesday Surveys of Norfolk and Suffolk, and the peculiarities of their distribution, . . . are most easily understood when regarded as the result of Scandinavian influence.[1]

It is not altogether certain, however, that her statistics and distribution-map of the Domesday free peasantry do really support such a conclusion. They show that while the proportion of free peasantry varied immensely from hundred to hundred (from 87% of the population in Parham half-hundred to 12·9% in Lackford Hundred), the free peasantry was mainly concentrated in two districts. If the hundreds in which half or more than half of the peasantry was free are plotted on a map, it will be seen that they form two compact blocks, one in east Norfolk, based on the Broadland, and the other stretching diagonally across Suffolk from Sutton Hoo to Thetford. Unfortunately Scandinavian influence cannot explain the preponderance of free peasantry in both these areas at once. For if Scandinavian place-names are prominent in the Broadland, they are very far from being prominent in Suffolk. To make matters worse, it cannot even be claimed that just as Suffolk is less Scandinavian, so its free peasantry is less numerous, for it is the contrary that is true; in Suffolk the free peasantry

[1] Dodwell, *art. cit.*, p. 155.

formed a higher proportion of the population than in Norfolk (45·4% as against 41·4%), and the only two East Anglian hundreds in which the proportion of free peasantry was over 80% were both in Suffolk (Parham and Wilford hundreds).

An even more serious difficulty is that there is documentary evidence to show that there was already an English free peasantry in East Anglia before the year 890. In Alfred and Guthrum's treaty (which is assumed to be genuine) it is stated (clause 2), that the 'ceorl who sits on *gafolland*' is to have the same wergeld of two hundred shillings as the Danes' freedman (*liesing*).[1] The context makes it clear that this ceorl was both English and to be found in Guthrum's East Anglian kingdom, and all scholars are now agreed that the ceorl was a freeman. The difficulty lies in the meaning of *gafolland*, whether it meant (as Vinogradoff claimed) land that the ceorl held in his own right but under tribute to the king, or whether it meant (as Liebermann and Stenton have claimed) land which had been 'taken at rent from a lord'.[2]

Fortunately, the evidence derived from the Kalendar of Abbot Samson of Bury St. Edmunds enables us to see how both interpretations could be right. For the Kalendar sets out in detail the financial dues paid by the tenants of socage land and shows how they look like rents and are paid as rents, although they are in origin regalian rights or the tribute due to the king. Moreover, the details of the payments reveal the surprising fact that tenure by socage in Suffolk had its nearest parallel with tenure by gavelkind in Kent. In both cases the tenure was free and the inheritance partible; in both cases the most prominent money-payment, whether called *hidage* or *gafol*, was paid, not to the lord of a manor, but to the lord of the hundred or lathe, and was calculated at the rate of a penny an acre; and in both cases carriage-service and an occasional boon-work were due at the central estate of the lord of the hundred or lathe. With a parallel so close between tenure by socage and gavelkind, it is surely legitimate to argue that socage land and *gafolland* might be parallel terms also, and that the 'ceorl who sits on *gafolland*' was the equivalent of the free peasant who in the Domesday Survey is known as a freeman or sokeman.[3]

[1] F. Liebermann, *Die Gesetze der Angelsachsen* (Halle, 1916), i. 126.

[2] Stenton, *Anglo-Saxon England*, p. 259, n. 1, and Vinogradoff, *The Growth of the Manor* (1905), pp. 132 and 240–1, and Liebermann, iii. 83.

[3] *The Kalendar of Abbot Samson*, pp. xli–xlvii.

The whole tenor of Alfred and Guthrum's treaty supports such a conclusion, for it divides the society of East Anglia into two main classes. The lower class, with a wergeld of 200 shillings, consisted, as we have already stated, of the ceorl who sits on *gafolland* and the Danes' freedman (*liesing*). The upper class is not described in detail; the treaty simply states that 'if a man is slain, whether he is an Englishman or a Dane, all of us shall place the same value on his life—namely 8 half-marks of pure gold'. Sir Frank Stenton considers that this class 'included not only Danish and English nobles but also Danish settlers of peasant rank and English ceorls farming their own land',[1] but it is hard to see why in the case of the English, no less than in that of the Danes, the peasant-farmer should of a sudden have been given the same wergeld as a nobleman; and it is still harder to see why an East Anglian ceorl should have been rated six times as high as his equal in Wessex. It is surely better to accept the more straightforward interpretation that the two classes of society mentioned in the treaty were what would have been known as the *twihynde* and the *twelfhynde*. The West Saxon ceorl was *twihynde* or worth 200 shillings, like the ceorl who sits on *gafolland* or the Danes' freedman of the treaty. The West Saxon 'nobleman' was *twelfhynde* or worth 1,200 shillings, which was (in Chadwick's opinion) the sum which the eight half-marks of pure gold of the treaty represented.[2] The only ground on which this simple explanation has hitherto been rejected has been that it conflicts with the belief that the great mass of Danes who settled in East Anglia were of peasant status. If that belief is set aside as unproven, it is easy to see why the ceorl who sits on *gafolland* was equated with the Danes' freedman (*liesing*).[3] For if all the Danes were given the status of nobility, it is reasonable to suppose that they had nobles' estates, as large as five hides, for example, in which case their freedmen (*liesing*) would have represented the only class on the Danish side that looked like peasants.

Alfred and Guthrum's treaty, therefore, shows not only that there was an English free peasantry in East Anglia before 890, but

[1] Stenton, *Anglo-Saxon England*, p. 259.

[2] H. M. Chadwick, *Studies on Anglo-Saxon Institutions* (1905), p. 50.

[3] 'By the northern law the touch of oar or sail conferred freedom so that every *thrall* who crossed the sea into England by so doing became a *leysing*' (or freedman), (E. W. Robertson, *Scotland under her Early Kings*, ii. 281).

also that the only peasants of equivalent standing that the Danes possessed were their freedmen. It would follow that, so far as East Anglia was concerned, the theory of the Danish soldiers of the rank and file humbly taking a peasant holding in the years of peace is incorrect. This conclusion need not surprise us. It is not out of harmony with the evidence of the Anglo-Saxon Chronicle, the tenemental system, the personal names or the place-names. It is not even out of harmony with the peculiar geographical distribution of the free peasantry in 1086, which is not really so puzzling as it might at first sight have seemed. For the districts in which the freemen and sokemen formed the largest section of the population were the districts that were, in 1086, the richest.[1] This fact emerges clearly from Professor Darby's Domesday maps. For the 'free' districts of East Anglia were those in which the recorded population per square mile was highest, and in which the recorded number of plough-teams per square mile was greatest.[2] If further confirmation be needed, it can be demonstrated that even from the tax-surveyor's point of view these districts were the richest, since in them the hundreds were small in area and the incidence of geld per square mile was correspondingly heavy.[3] What has to be explained, therefore, is why it was in the richest areas that the free peasantry congregated so densely; and the explanation lies ready to hand if only it is remembered that what Domesday Book shows is not the total number of free peasants that had ever existed in East Anglia, but the number that was still left in 1086. 'Manorialization' was progressing rapidly in the eleventh century. On almost every page of Domesday there is mention of some lord who had 'added' freemen or sokemen to his manor, or who had made a manor where none existed before. This process of manorialization had made the greatest progress in the poorer districts of East Anglia—the fact can be ascertained by counting, as Miss Lees did, the number of Domesday manors with five carucates of land or more[4]—and the reason for this rapid progress need have been

[1] Could this be true not only of East Anglia, but also of England as a whole? See Maitland, *Domesday Book and Beyond*, pp. 21–2.

[2] H. C. Darby, *The Domesday Geography of Eastern England* (1952), figs. 100, 101, 102.

[3] Darby, figs. 20 and 36. In East Anglia the geld was levied in a manner that assumed that every hundred contained 100 hides, every double-hundred 200 hides, and so on.

[4] B. A. Lees in *Victoria County History, Suffolk*, i. 371–2.

nothing more involved than economic pressure; the poorer the freeman, the more likely he was to betake himself to a lord. In the richer districts the free peasants retained their freedom longer because their powers of resistance were greater.

There is therefore nothing inherently Danish about the free peasantry of East Anglia, and there is no reason to suppose that there was a systematic settlement of the Danish soldiers of the rank and file in East Anglia. Such a conclusion, though it runs counter to the belief that the peasant's freedom was necessarily imported from Scandinavia, helps to explain many general features of East Anglian history that would otherwise be inexplicable.

It explains the sharp contrast that can be drawn in many respects between East Anglia and the Northern Danelaw. In Domesday Book the contrast is so marked that it led J. H. Round to declare out of hand that while the Danes had conquered many districts, it was in the district of the five boroughs that they had settled.[1] East Anglia did not have Danish trithings or wapentakes but English hundreds; its towns did not have the twelve Danish lawmen; and 'the peace given by the hand or seal of the King' was protected in East Anglia, not by a fine of 'eighteen hundreds' as in the Danish districts, but by a smaller fine of 'ten-and-a-half hundreds' as in the English districts.[2] In religion the contrast is equally striking. For Miss Whitelock has shown that East Anglia had been largely reconverted to Christianity by the end of the ninth century, a remarkable piece of anonymous missionary work if the Danish population was large, and that by the middle of the tenth century it was certainly not 'behind the rest of England in piety and zeal for the work of the Church'. But in the Northern Danelaw, even at the beginning of the eleventh century, Wulfstan still thought it necessary to legislate against heathen practices.[3]

The absence of any systematic Danish settlement in East Anglia also helps to explain its history in the tenth century. Though most of the districts that had been reconquered from the Danes seem to have been ruled, especially in Athelstan's reign, by Danish governors, East Anglia was governed by Englishmen. From 932 to 992 the ealdormanry of East Anglia was held by Athelstan

[1] J. H. Round, *Feudal England* (1895), pp. 71–2.

[2] *Leges Edwardi Confessoris*, c. 33 (Liebermann, i. 660).

[3] D. Whitelock, 'The Conversion of the Eastern Danelaw', *Saga Book of the Viking Society*, xii. 159–76.

'half-king' and his sons, a family that had close links with the royal house of Wessex.[1] Their East Anglian ealdormanry included Cambridgeshire, and accounts of several of the lawsuits that they heard in that county are preserved in the *Liber Eliensis*. There is no suggestion in these accounts that the courts, or the law used in them, were Danish; and the suitors are called the nobles (*proceres*) of East Anglia, or 'all the men of high birth of East Anglia' (*omnes majores natu Orientalis Angliae*).[2]

It may even be that too much significance has been attached to the statements of late-eleventh and twelfth century writers that not only East Anglia but fifteen or sixteen counties north of Watling Street and the Thames (including even Middlesex and Buckinghamshire) were in the *Denalagu* or under Danish law.[3] Sir Frank Stenton has pointed out that the statement does not necessarily imply that the majority of the population was Danish in these counties, since

> the establishment of a Danish aristocracy which controlled the course of business in the local courts would be hardly less effective than the settlement of an army in imprinting a Danish character on the law of a shire.[4]

But quite apart from this, it is by no means certain how early this district of *Denalagu* was formed. The word itself is not to be found earlier than the eleventh century, its first recorded use being in *vi Æthelred* 37 (1008),[5] and the actual district accords more closely with the area overrun by Sweyn and his Danes in 1013 than with the extent of Guthrum's kingdom in the tenth century.[6] Still more

[1] Stenton, *Anglo-Saxon England*, pp. 345–7.

[2] *Liber Eliensis*, pp. 123, 129.

[3] Stenton, *Anglo-Saxon England*, pp. 498–9; Steenstrup, *Normannerne*, iv. 35–39; and *Symeon Dunelmensis Opera et Collectanea* (ed. H. Hinde, Surtees Soc., vol. li, 1868), i. 221.

[4] Stenton, *Anglo-Saxon England*, p. 499.

[5] D. Whitelock, 'Wulfstan and the so-called laws of Edward and Guthrum', *E.H.R.*, lvi. 19. In this article she shows that the so-called laws of Edward and Guthrum refer, not to East Anglia in the tenth century, but to Northumbria in the eleventh. Liebermann was consequently mistaken in quoting these laws as evidence that East Anglia formed part of the Danelaw in the ninth century.

[6] William of Malmesbury, *Gesta Regum* (Rolls Series), i. 188: 'cum numerentur in Anglia triginta duo pagi, illi jam sedecim invaserant'. Cf.

important are the facts that in King Cnut's second legal code (*c.* 1018–23) East Anglia is specifically distinguished from the Danish districts (*mid Denum*), and that even in 1086 the *maior emendatio forisfacture* was not the same in East Anglia as in the Northern Danelaw.[1] It would consequently seem possible that the extension of the *Denalagu* to fifteen counties was, as Chadwick suggested, part of 'some artificial redistribution of the country' made in the eleventh century.[2] Such an administrative reform could most easily be understood if it had taken place in the reign of King Cnut. Indeed it would seem that many misconceptions about the Danelaw could be due to the difficulty of distinguishing between Danish innovations of the ninth and eleventh centuries. Sir Frank Stenton has shown that it was in the eleventh century, and probably in Cnut's reign, that the Northern Danelaw was first assessed for taxation by the division of the land into (Danish) carucates grouped in duodecimal units;[3] and an administrative reform that brought East Anglia into a district known as *Denalagu* might well have been made at the same time, especially since it was a period during which the earl of East Anglia was himself Danish, Thorkell the Tall.

It is clear, however, that no matter when East Anglia may first have been considered as part of the Danelaw, its law was not influenced by Danish custom to anything like the same extent as that of the Northern Danelaw. Indeed the two areas stand in contrast to each other not only in law, but also in religion, administration and the extent of Danish place-names; and the only rational explanation of the contrast is that the Danish settlement of East Anglia was less intense than that of the Northern Danelaw. That it had some sort of a Danish aristocracy we know, for quite apart from the evidence of place-names it is categorically stated that

Anglo-Saxon Chronicle (E), *s.a.* 1013. According to Alfred and Guthrum's treaty, on the other hand, Middlesex would not have been in Guthrum's kingdom.

[1] ii Cnut, 71, 2 and 3 (for the date of which, see Whitelock in *E.H.R.*, lxiii. 433–52). For the *major emendatio forisfacture*, see, besides Domesday Book, the so-called *Leges Edwardi Confessoris*, c. 33.

[2] Chadwick, *Anglo-Saxon Institutions*, pp. 198–201.

[3] Stenton, *Types of Manorial Structure in the Northern Danelaw* (Oxford Studies in Social and Legal History, ii, 1910), pp. 87–90. A similar conclusion is reached by Reginald Lennard in 'The Origin of the Fiscal Carucate', *Economic Hist. Rev.*, xiv (1944–5), 51–63.

Archbishop Oda was the son of one of the Danes who came over with Hinguar and Hubba.[1] But that it had a Danish peasantry, from which were descended the freemen and sokemen who in 1086 formed more than 40% of the rural population, we cannot believe. For if these freemen and sokemen were Danish, East Anglia should, in law, religion, administration and place-names, have been not less Danish but more Danish than any other county except Lincolnshire.

The weight of the evidence is therefore against the theory of a settlement of East Anglia by the Danish soldiers of the rank and file. The evidence of the Alderman Æthelweard, Cnut's second legal code, Domesday Book, and the *Liber Eliensis* all militate against it, while the evidence of Alfred and Guthrum's treaty would seem to be decisive. That treaty provides the only direct evidence extant for the state of East Anglian society during the Danish occupation. If, as is here claimed, it shows that the free peasantry of East Anglia had its origin, not in, but before the Danish invasions of the ninth century, it will be necessary to re-open the whole question of the origins of free socage. For the free peasantry of East Anglia—that is to say of the two counties of Norfolk and Suffolk alone—formed approximately one half of the total number of freemen and sokemen recorded for the whole of Domesday England. What in fact their origin was, we cannot yet pretend to say, but we must at least, as Maitland put it, 'be careful how we use our Dane'.

[1] *Vita Sancti Oswaldi* (written at Ramsey, *c.* 995–1005) in *Historians of the Church of York*, ed. J. Raine, Rolls Series, i. 404. Hinguar and Hubba were, according to Abbo of Fleury, the Danes who attacked East Anglia in 869 (*Memorials of St. Edmund's Abbey*, ed. Arnold, i. 8).

THE ROLE OF THE LONDON MISSIONARY SOCIETY IN THE OPENING UP OF EAST CENTRAL AFRICA

By A. J. Hanna, Ph.D.

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ON 1 February 1876 the London Missionary Society decided to establish a mission on the shores of Lake Tanganyika. It was a bold and almost a foolhardy decision, for the route between the lake and the east coast of Africa was more than 800 miles in length, without either roads or ordered government, and over this enormous distance the mission would have to maintain some contact with the outer world if it was to survive. Not without hesitation and misgiving did the Directors commit themselves to so hazardous an undertaking. But interest in the lake region had been aroused by the journeys of Livingstone and Cameron, and a certain wealthy citizen of Leeds, named Robert Arthington, had offered the Society a contribution of £5,000 on the express condition that a mission to the peoples bordering Lake Tanganyika should be undertaken. The offer seemed too generous and imaginative to be refused.[1] The vast lake, with its thousand miles of coastline, was a great natural highway by which to reach and evangelize the villagers who dwelt around its shores. It was not the only lake with such possibilities, and only a few months previously, as it happened, the Free Church of Scotland had sent out a mission to Lake Nyasa, and had supplied it with the sections of a steamer.

The L.M.S. mission was one of several European undertakings which were launched almost simultaneously into the interior of Africa by way of the east coast. In addition to two Scottish missions in Nyasaland, to the south, there was the mission to Uganda, to the north, sent out by the Church Missionary Society; and very shortly afterwards came French Roman Catholics, the White

[1] L.M.S., Southern Committee, Minutes, 18 Nov. 1875; 20 Jan. 1876; 1 Feb. 1876.

Fathers, bound like the L.M.S. itself for Lake Tanganyika.[1] The Scottish missions reached their destination by way of the river Zambesi and its tributary the Shiré; the L.M.S. and the other missions used the overland route from Zanzibar. So when Sir John Kirk, the British Consul-General at Zanzibar, compiled a list of the Europeans who were on the mainland between the coast and Lake Tanganyika in the year 1880, he did not include the Scots. The total number was thirty-six: of these, twenty were missionaries, and eight of them were members of the L.M.S. Of the remaining sixteen, nine were Belgians representing the African International Association, and the German and French branches of that body were represented by four Germans and one Frenchman.[2] The beginnings of European political penetration may thus clearly be discerned, but European commercial penetration was almost non-existent—there was only one merchant in Kirk's list —and, in the main, this phase of the opening up of East Central Africa was in the hands of the missionaries.

It had been preceded by the phase of exploration, from about 1856 to 1875, when Livingstone made his three historic journeys, Burton discovered Lake Tanganyika, and Cameron explored much of that lake which Burton had been unable to visit.[3] It was to be followed, from about 1884 to 1890, by what is usually called the 'scramble' of the European Powers for political control of tropical Africa. But the decade between exploration and annexation was mainly one of pioneer missionary effort: an effort inspired primarily by the dedicated life and the lonely death of Livingstone,[4] and by the awareness which he had aroused, in Britain and elsewhere, of the sufferings which the peoples of Central Africa were enduring at the hands of the Arab and half-caste slave traders.

This intermediate phase, coming as it did between the dramatic discoveries of the earlier pioneering period and the international commotion of the subsequent 'scramble', is easily lost to sight as

[1] A good, detailed account of the 'Missionary Occupation of East Africa' is given in R. Oliver, *The Missionary Factor in East Africa* (London, 1952), chapter 1.

[2] F.O. 84/1575: Kirk to Granville, No. 98, 24 Aug. 1880.

[3] An excellent survey of 'The Exploration of East Africa' is given in Sir R. Coupland, *The Exploitation of East Africa, 1856–90* (London, 1939), chapter vi.

[4] He died on or about 1 May 1873 at Chitambo, in what is now N. Rhodesia.

little more than a parenthesis in the story of the opening up of Africa. Yet it required at least as much courage and fortitude to settle down to live in the heart of that continent for year after year as to pass through in the course of a journey of exploration; and one cannot but sympathize with Swann of the L.M.S. when he complained, as late as 1893, that explorers were 'gazetted, posted up everywhere, fêted, Ll.D'd.', while the missionaries who quietly lived and worked despite loneliness, malaria, and the surrounding barbarism, for the good of the African people, pleaded in vain for the one form of recognition that they desired, the coming of reinforcements.[1]

The story of the efforts and sacrifices of the L.M.S. mission to Tanganyika in its earliest years has been told, modestly but in detail, in a book by the most notable of its original members, Captain Edward Coode Hore,[2] and there is no need to describe here the tragic succession of illnesses and deaths which kept the numerical strength of the mission so low that its mere survival was a remarkable achievement of steadfast endurance.

What strength it had was largely frittered away by over-ambitious dispersal of effort. It founded stations at Ujiji (the Arab trading centre on the east coast of the lake), in the Uguha country to the west, on Kavala Island off the west coast, at the mouth of the Lofu river to the south, at Niamkolo a considerable distance east of the Lofu, and at Fwambo, nearly fifty miles from Niamkolo along the road to Nyasa. There was also a missionary for some years at Urambo, about 200 miles east of Ujiji on the way from Zanzibar, and so remote from his colleagues on the lake that he seldom if ever had a chance to visit them. Not all these stations were occupied at once—there would seldom have been enough men in the field to provide one for each—but all were occupied at one time or another during the first fifteen years of the mission's existence. To some extent this dissipation of energies was dictated by circumstances,[3] and, in addition, only experience could conclusively show whether a particular site was relatively healthy and in other respects suitable for permanent occupation.

[1] L.M.S., C.A., 9.1.B: Swann to Thompson, 11 April 1893.

[2] *Tanganyika, Eleven Years in Central Africa* (London, 1892).

[3] The station at the mouth of the Lofu was the only suitable place for putting together the sections of the mission steamer, a task which occupied many months; but it was far too unhealthy for permanent occupation.

To some extent it was also the result of a deliberate policy to create a ring of stations on the shores of the lake, as a first step to the penetration of the interior in every direction,[1] a policy which could have succeeded only if the number of men available had been ten times as large. But there was also a further reason. The mission was organized very loosely, with no officially recognized leader, and with complete equality among all its members, whose only bond of union was the 'Tanganyika District Committee' in which they all met together once a year, electing their chairman and secretary, and making all decisions as to the policy which should be recommended to the Directors in London. In the intervals between these annual meetings each member of the mission did what he himself thought proper, and this excess of liberty and equality, combined with the tropical conditions, put a severe strain on the sentiment of fraternity and led to a good deal of working at cross-purposes.[2]

Since the mission was slow to establish itself permanently in any one place, its work of preaching and teaching did not begin to bring in converts for many years after it was founded. Not until the 1890's did its efforts bear any appreciable amount of fruit. But although the one essential aim of the mission was to make known the gospel, the actual importance of its work in the pioneer period was in quite other directions. This was through no choice of its own members, but was entirely the result of circumstances. For one thing, missionaries, like other people, had to be fed, clothed, and housed. They required not only supplies for their own use, but also large quantities of calico and other trade goods with which to pay those who worked for them. (It was as bringers of calico, not as bearers of the gospel, that they and other missionaries were welcomed by the people to whom they came.) When the L.M.S. expedition left Zanzibar in July 1877, bound for Ujiji, Sir John Kirk reported officially that, if it were successful, it would 'open up the country in a wonderful manner to legitimate trade'.[3] In an attempt to solve the problem of transport, it had brought from South Africa two Cape bullock waggons and

[1] L.M.S., C.A., 5.4.B: Hore to Thompson, 23 April 1884.

[2] L.M.S., C.A., 6.1.C: Hore to Thompson, 23 May 1885; 6.3.B: H. to T., 8 Feb. 1886; 7.2.A: H. to T., 30 June 1887; L.M.S. Southern, outgoing: T. to H., 16 Oct. 1885.

[3] F.O. 84/1484: Kirk to Derby, No. 114, 26 July 1877.

eight carts, requiring in all over 100 oxen to draw them. But this attempt was an utter failure, for the route proved to be infested with tsetse fly, and it became apparent that the only means of transport which was practicable was the one normally employed by travellers in Africa: the employment of a large number of porters carrying loads on their heads. Five years later, when Captain Hore led a caravan over the same route, it consisted of about a thousand porters, who were required to convey to the lake the sections of a steel sailing boat, together with a supply of trade goods and the personal belongings of several missionaries on their way out as reinforcements.[1] It is not surprising, therefore, that when Hore read in *The Times* a few years afterwards that there was 'no one else to advise with regard to East African expeditions but Stanley and Thomson', he remarked in a letter to the Directors: 'I do not know whether you have ever realized that there have been L.M.S. expeditions in East Africa more extensive and successful than any of Stanley's or Thomson's.'[2]

A similar problem of transport had beset the mission of the Scottish Free Church on Lake Nyasa, and had been solved by the formation of a small trading company known as the African Lakes Company. This body took over the mission steamer on Lake Nyasa, and itself placed a paddle-steamer on the Zambesi and Lower Shiré, so that it was able to convey goods from the coast by water as far as the north end of Lake Nyasa. From that point to the south end of Lake Tanganyika was only about 200 miles, less than a quarter of the land journey from Ujiji to the coast. So, when the L.M.S. sent out the sections of a small steamer in 1883, it employed the Lakes Company to convey it by the Nyasa route. James Stevenson, the philanthropic Glasgow merchant who controlled the Lakes Company, contributed £4,000 for the construction of a road, which came to be called after him, to connect the two lakes, and the L.M.S. for its part undertook to found a station along this road as a pledge that it would make continuing use of it.[3]

[1] Hore, *Tanganyika*, chapter viii.

[2] L.M.S., C.A., 7.2.A: Hore to Thompson, 30 June 1887.

[3] L.M.S., Southern Committee, Minutes, 17 March 1881, and 25 April 1881. Stevenson desired a binding assurance that the L.M.S. would entirely abandon the overland route and import all its requirements by way of Nyasa, but this the Society prudently refused to give.

The general strategy of the mission was closely related to this question of communications, for the adoption of the Stevenson Road as the mission's normal supply route would make it convenient to establish the headquarters at or near the south end of Lake Tanganyika, in place of Kavala Island, which had a fairly central position. Unfortunately, the Lakes Company was such an extraordinarily inefficient body, and mismanaged so disgracefully the delivery of the steamer, that Hore was permanently embittered against the Nyasa route, and actually preferred to rely on the long overland haul to Ujiji. Hore remained with the mission until 1888, and used his influence to maintain the headquarters on Kavala so that it could be built up into a new Iona, a great centre from which the influence of Christianity would radiate in all directions, both by the use of the steamer for the purpose of itinerating and by the establishment of sub-stations at various points on the coast. Soon after his departure, however, Kavala was abandoned. The advantages of consolidating the mission in one locality were obvious, and the south end offered more scope for its work than did the little island. Everyone except Hore agreed that it had the additional advantage of being healthier, and, in spite of the Lakes Company's shortcomings, it was more accessible from England.[1] Thus at last the mission settled down at the south end, and by patient, steady work began to lay the foundations of its later success. Its steamer, which had been put together with an infinity of trouble and launched in 1885, was no longer required, and after rusting on the beach for two years or more was sold to the African Lakes Corporation[2] in 1895.[3]

If the missionaries were regarded by the African villagers primarily as purveyors of calico, they appeared to the Arabs primarily as opponents of the slave trade and agents for the exercise of British influence. Ujiji lay on the main trade route from Zanzibar to the Upper Congo, and the main commodity which

[1] L.M.S.; C.A., 7.4.A: Swann to Thompson, 30 Jan. 1889; 8.1.A: S. to T., 20 Jan. 1890.

[2] In 1893 the African Lakes Company had been transformed into the African Lakes Corporation.

[3] L.M.S., C.A., 9.1.B: Swann to Thompson, 11 April 1893; Southern Committee, Minutes, 25 March 1895.

the Arabs came to purchase was slaves. (The only other export of any importance was ivory, for which the slaves who were driven to the coast provided free transport). Zanzibar was the centre from which the slave trade of East Africa had long been conducted by Arabs and Arab half-castes, and the sultan of Zanzibar had obtained international recognition as sovereign of the whole of the east coast lying to the north of the Portuguese possessions. It was, therefore, at Zanzibar that Britain had applied pressure in her struggle to destroy the slave trade on the east coast after it had been destroyed on the west, and in 1873 her pressure had culminated in a threat of naval blockade. Unable to resist the threat, the sultan, with the reluctant consent of his notables, had agreed to terminate completely the shipment of slaves from any part of his dominions, and to close all public slave markets.[1] From that time on he co-operated steadily and effectively with Kirk in putting down the traffic. At Kirk's suggestion, he decreed in 1876 that the outlawing of it should be made complete. Whereas the treaty of 1873 applied only to the shipment of slaves from the coast, the decree of 1876 extended the prohibition to the conveying of them by land.[2] And, in enforcing the decree, the sultan acted as vigorously and sternly as Kirk could desire.[3]

In so doing he was undoubtedly motivated entirely by calculations of self-interest, and not in the least by the promptings of conscience. The proof of this statement is to be found not only in the circumstances in which he made his decision to co-operate with the British, but also in his continuing practice of importing women and eunuchs for his own harem. This was not illegal, since they were brought in from *outside* his dominions, but in reporting it Kirk scarcely tried to conceal his personal feeling of disgust.[4] Why, then, did the sultan make his co-operation wholehearted, and not, as was to be expected, a mere pretence? The answer is that he saw his opportunity to turn what had at first been a harsh necessity into a positive advantage to himself. Before 1873 his own constitutional position had been little more than that of a first among equals; but if he was to suppress the slave trade he would have to do it in the face of opposition from his

[1] The text of the treaty is given in Coupland, *op. cit.*, pp. 212–13.
[2] The text of the decree is given in Coupland, pp. 225–6.
[3] *Ibid.*, pp. 227–30.
[4] F.O. 84/1679: Kirk to Granville, No. 135, 23 Oct. 1884.

over-mighty subjects, and he could expect the help of the British to put them down. He would thus be serving his own interests as a ruler and state-builder. If the British could make use of him, he for his part could make use of them. The common interest which he shared with them in the building up of his own power was more important to him than his personal feelings about the slave trade. The more useful he made himself to them in their attack on that trade, the more cordially they would strengthen his hands to fight it. As Kirk explained to the Foreign Office in 1877:

> There are many reasons why we must on land utilize as far as possible the Sultan's power and Government, directing and strengthening it in such a way as will best accomplish the end in view, in this way supplementing and guiding rather than superseding his powers.[1]

It was a British naval officer, Lieutenant Lloyd Mathews, who organized some hundreds of negroes into what was at once a police force and a disciplined army capable of enforcing the will of the sultan, who had formerly depended on an untrustworthy rabble of Arab mercenaries. As Kirk wrote in 1878:

> The knowledge that the Sultan has now an efficient force has totally changed in a few months the relation in which he stands to his chiefs and people. Municipal improvements are being carried out and rules enforced for maintaining order in town that could not before have been carried through. Thus, measures are being enforced to limit the curse of a free sale of spirits . . . Again, His Highness has during the past month taken the first step to altering the feudal system of ages by which the master is responsible to no one for the punishment inflicted on the slave. At my instance the houses of slave-owners have been visited and the punishment of slaves begun to be taken under the cognizance of the state; this is a measure I should have hesitated to advise His Highness a year ago to undertake. It is to be hoped that before long the appearance of regular troops at some of the mainland stations will convince the people of the coast that they are helpless to resist the Sultan's laws, and show the Governors that, while they must obey their orders, there is a force that can support them in doing it.[2]

[1] F.O. 84/1486: Kirk to Derby, No. 129, 24 Aug. 1877.
[2] F.O. 84/1515: Kirk to Salisbury, No. 104, 26 July 1878.

By 1878, then, the sultan, with Kirk as his right-hand man, was making a serious and partially successful effort to transform his dominions, not only in the island of Zanzibar itself but all along the coast, into something resembling a modern state. It was just at this time that the L.M.S. mission was beginning to establish itself at Ujiji. And although Ujiji was far away in the interior, it was within what might appropriately be called the Zanzibar sphere of influence. True, the sultan had no powers of government there, or anywhere else more than a few miles inland from the coast. But the Arabs who traded and resided there, and even further west in the country known as Manyema, were usually in the habit of visiting Zanzibar from time to time, and regarded it as their real home; hence they knew and respected the sultan's prestige, and might even, when visiting the island, be made to feel his power.

The early experiences of the missionaries at Ujiji throw an interesting light upon the character of that settlement and the way in which the Arab settlers regarded the sultan whom they acknowledged as 'Seyyid', or lord. The missionaries, as was usual with European travellers in East Africa, carried letters from the sultan recommending them to those of his dutiful subjects whom they might meet, and, thus equipped, they were assured of courtesy and a gratifying display of friendliness. Nevertheless, their presence as permanent residents was highly unwelcome to the Arabs, who were not only anxious to conceal their own misdeeds from European eyes, but were also alarmed lest the missionary pioneers should be the vanguard of a British infiltration which would end with the annexation of the country to Britain. On their first arrival at Ujiji, in August 1878, they were asked to explain to a gathering of leading Arabs the purpose of their coming. J. B. Thomson, who had led the caravan on its long journey but who died shortly afterwards, replied on their behalf.

> I said we had come to help to open up the country, to instruct the people to improve their social and moral state as well as to teach them all sorts of handicrafts and to better their domestic position. Further, I told them we wished to examine the lake and to make ourselves acquainted with the people on its shores. In short, I told them that we had not come to trade, but we wished to encourage trade and to do all we could to

benefit the people morally and socially, and for these purposes we wanted to build or to buy houses and boats in such places as we could carry on our work with vigour and in health.[1]

There was nothing in this to which the Arabs could object, so, with their famous courtesy and hospitality, they promised to assist the missionaries as far as they could. At the same time they found a convenient pretext for obstruction. Their loyalty to the sultan, they declared, forbade them to allow the mission to build or buy either house or boat until express authority to do so had been received both from the sultan and from Kirk. In the meantime they would permit a house and a boat to be hired—at an extortionate rent. Thus the unwanted visitors could be both fleeced and very nearly immobilized during the many months that must be spent in communicating with Zanzibar. Kirk, like the missionaries themselves, was not much impressed by this excess of zeal, but he thought it, nevertheless, gave him an opportunity to extend 'an influence that may hereafter be most advantageously exercised in favour of British interests, and help in opening up Central Africa to commerce and civilization'.[2] It was not by undermining such authority as the sultan possessed in the far interior that Kirk thought British purposes could best be served; on the contrary, he was eager to seize any opportunity of making it more real.

But the Ujiji Arabs were not content to waste a year of the mission's time in a manner highly lucrative to themselves. At first, indeed, it did seem that the plain language of the letters sent by the sultan and Kirk had ended their resistance, for they allowed the missionaries to purchase a building-site, some distance from the town, from an independent chief and his council.[3] Hore was so delighted that he wrote to Kirk that the mere mention of Kirk's name, even in distant Ujiji, was enough to secure 'very remarkable results'.[4] But after some time it became evident that the Arabs

[1] F.O. 84/1515: Thomson to Kirk, 30 Aug. 1878, enclosed in Kirk to Salisbury, No. 139, 7 Nov. 1878.

[2] *Ibid.* (Kirk's No. 139).

[3] F.O. 84/1548: Kirk to Salisbury, 7 Nov. 1878. The assent of the council was important, for that of the chief by himself was not enough to make the purchase valid under native law.

[4] The relevant passage from Hore's letter to Kirk, dated 26 Dec. 1879, is quoted in Coupland, p. 267.

had not yet exhausted their capacity for obstruction. They raised all kinds of objections to Hore's building on the site they had allowed him to buy, being, they said, 'afraid that we may obtain a footing, take possession, hoist our flag, stop the slave trade, and drive them away'. They professed, as before, to be acting entirely out of loyalty to the sultan, and contrived to argue that the sultan's letter, which authorized the purchase of 'unoccupied land', did not justify the selection of the site actually bought. Before they could allow the mission to take possession, they must needs have yet another letter from Zanzibar. Hore warned them that the sultan would be angry with them, whereupon they coolly abandoned their pretensions of zealous loyalty and observed simply 'The Sultan is a long way off.' Hore then asked one of them, who was about to depart for the coast, what he would say to justify his conduct; but the man replied: 'I don't care; I am going home to Muscat, and not coming back.'[1]

It must be said that the missionaries themselves acted injudiciously by hoisting a Union Jack outside their house in Ujiji, presumably for no other reason than that it heartened them to look upon their country's flag when they were themselves isolated in such alien surroundings. The Arabs warned them that this action, with its possible political implications, would not be tolerated, yet they would not desist: the result was that an angry mob tore down the offending emblem, and for a time they were in danger of being murdered. It is interesting to notice that when Kirk heard of the incident, he censured their lack of prudence, and that when Lord Salisbury received Kirk's report on the subject, he personally wrote a minute directing his permanent officials to 'Call [the] attention of the London Missionary Society to the fact that no one not bearing Her Majesty's commission or employed in the public service has a right to fly the British flag.'[2] The Arabs in Central Africa could not of course be expected to know how little either the Directors of the Society or the British Government itself were disposed to employ the mission for the purpose of acquiring territory; their alarm was genuine, and there is little doubt that their protestations of fear lest the sultan's authority

[1] F.O. 84/1574: Hore to Kirk, 25 Feb. 1880, enclosed in Kirk to Granville, No. 71, 25 June 1880.

[2] F.O. 84/1548: Kirk to Salisbury, No. 146, 7 Nov. 1879, with minutes; K. to S., No. 157, 23 Nov. 1879.

should be infringed were made partly as a result of this hoisting of the flag.

But this in no way alters the fact that their professed loyalty was little more than a cloak to give respectability to their own interest in maintaining the slave trade. They did not even adhere consistently to their assertion that the sultan's authority extended to Ujiji at all. 'If I plead "the Sultan",' Hore complained, 'they at once declare Ujiji to be either "the country of the Wajiji" or "no man's land". If I plead the latter, they at once refer to the authority of the former.'[1]

This attitude of obstruction came to an end two or three years after the missionaries' first arrival, but the reason why the Arabs abandoned it was simply that they had at last come to the conclusion that, from their own point of view, the missionaries were fairly harmless.

The whole affair serves to illustrate the truth of Washington's famous dictum 'Influence is not government.' Influence the sultan certainly had in the interior, but it broke down just when it was most needed: that is, when it ran counter to the vested interests of the Arab traders. And it was beyond the sultan's powers to extend effective government inland from the coast. It is true that in 1880 he sent Mathews to establish an armed post at Mamboia, about 120 miles inland on the main trade route to Ujiji. According to Kirk, Mathews' object was 'to form a base among friendly natives, and establish government where now there is none, to secure the roads to travellers, and eventually to make use of this for advancing farther inland, and so create a line of military posts through Ugogo.'[2] But, so far as he could ascertain from conversations with the sultan, this policy had no more ambitious aim than to ensure that the main trade route to Central Africa was not closed by native wars, or obstructed by the action of the more powerful tribes in levying excessive tolls on passing caravans. Far from intending to assume administrative control over the interior, the sultan was 'anxious to avoid anything like direct interference with the independence and self-government of the various native tribes.'[3]

Four years later, however, the absence of Zanzibar authority

[1] Hore to Kirk, 25 Feb. 1880, *loc. cit.*
[2] F.O. 84/1575: Kirk to Granville, No. 120, 18 Oct. 1880.
[3] F.O. 84/1575: Kirk to Granville, No. 134, 13 Nov. 1880.

enabled German agents to obtain possession of large tracts of the interior for Germany. Already the agents of the Belgian king, in the service of the so-called African International Association, had been active in East as well as in West Africa, and had founded two stations on Lake Tanganyika. The anxiety of the sultan was aroused when Stanley, King Leopold's chief agent in the Congo, boasted to the London Chamber of Commerce in September 1884 that the Association had acquired political sovereignty and a commercial monopoly not only in the Congo basin but eastwards a hundred miles beyond Lake Tanganyika.[1] The presence of a large armed force on the shores of that lake was resented by the Arabs, and in September 1885 Hore expressed the opinion that they 'would have made trouble long since' if they had felt strong enough.[2] They were not prepared to go down without a struggle, and it appears that the sultan himself determined to commission the most notable merchant adventurer among them, Tipu Tipu, to secure political control of the country around Lake Tanganyika before it was too late. Kirk thought so,[3] and for that reason took pains to cultivate the friendship of Tipu Tipu. That magnate, however, was notorious for his slave-raiding activities. The slave trade, though severely checked by the treaty of 1873 and the decree of 1876, still continued on a reduced scale, and was not finally ended until slavery itself was abolished in Zanzibar in 1897. Indeed, the L.M.S. missionary at Urambo reported in 1886 that in Zanzibar 'the slave-market is almost as open and well-known as the fruit, for you can get up-country, through letters, regular quotations of the Zanzibar price of rice, millet, slaves, oil, etc., etc. . . .'[4] Kirk's own reports show that in 1879, when the preventive measures had reached their maximum efficiency, the number of slaves liberated by the British navy off the east coast was 73.[5] Since it was never possible to intercept and liberate more than about five per cent of the total number shipped,[6] it must be presumed that over 1,400 slaves were shipped in that year. Thereafter the number tended to rise again. And Hore, who in 1879

[1] F.O. 84/1679: Kirk to Granville, with enclosed press report of Stanley's speech.

[2] L.M.S., C.A., 6.2.A: Hore to Thompson, 7 Sept. 1885.

[3] F.O. 84/1679: Kirk to Granville, No. 135, 23 Oct. 1884.

[4] L.M.S., C.A., 6.4.C: Shaw to Thompson, 29 April 1886.

[5] F.O. 84/1574: Kirk to Salisbury, No. 20, 23 Feb. 1880.

[6] F.O. 84/1851: Memorandum by Kirk, 22 Jan. 1887.

had found very little slave trading being carried on in Ujiji,[1] reported in 1885 that its horrors still existed 'in all the heart-rending detail described by Livingstone and others, only perhaps worse from being at some points contraband', and that it could indeed be maintained in being by the demand for slaves within the African continent itself, without any necessity for outside markets.[2] Naturally Hore, like every other missionary, hated the slave trade, and although common prudence forbade him to interfere with it in any active way, he made no attempt to conceal from the Arabs the fact that he detested it. Yet he looked with favour, not with anxiety or abhorrence, on Tipu Tipu's bid to become the ruler of Central Africa in the name of the sultan. Tipu Tipu, he declared, 'is the only one of his class who shows signs of overcoming prejudice and joining with Europeans to open up roads for commerce, etc., etc., and I do think that it would be quite possible for a prudent European Government to obtain his help for the improvement of Africa.'[3] In subsequent letters Hore expressed his conviction that 'if it came to fair European arbitration to decide', the boundary of the Congo Free State would be placed at Stanley Falls, and the territory east of that point would be ruled by Tipu Tipu, in the name of the sultan, and under the supervision of the British Government. In this way, he thought, British pressure against the slave trade could, with comparatively little trouble, be extended from the coast to the heart of the continent. The question would, of course, arise, of how the arch-poacher was to be converted into a super-gamekeeper: but here again Hore had a simple answer: Britain should pay him a sufficient subsidy to make it his interest to become the instrument of her policy; he had shown himself to be a man who would be willing 'to serve those, whether European or Arab, who offered the best pay and advantages'.[4]

These letters afford interesting support, from a man of unquestionable integrity and disinterestedness as well as ripe experience, for Kirk's belief that it was both politically expedient and morally

[1] F.O. 84/1548: Kirk to Salisbury, No. 146, 7 Nov. 1879, quoting Hore to Kirk, undated.

[2] L.M.S., C.A., 6.2.C: Hore to Thompson, 28 Nov. 1885.

[3] *Ibid.*

[4] L.M.S., C.A., 6.4.B: Hore to Thompson, 24 July 1886; 7.1.A: Hore to Thompson, 6 Jan. 1887.

justifiable to employ the sultan of Zanzibar and his more prominent subjects as agents of British policy in East and Central Africa. Indeed, it seemed to Hore, as doubtless it also seemed to Kirk, that there was really no choice in the matter. In March 1885 he explained to the Directors that 'powerful and direct agents of the Sultan' were forming stations on the lake, with the apparent intention of consolidating Zanzibar's political title there, so that the whole mission-field was passing 'under Mohammedan influence, if not rule'. This was one of the main reasons for his reluctance to concentrate the mission at the south end, where Mohammedan influence was weakest: it seemed to him that to do so would be to run away from the inevitable, and that it was far better to accept Arab control frankly and without resentment, so that the Arabs would have no ground for reviving the attitude of suspicion and jealousy which they had shown towards the mission when it first arrived.[1]

The accepted interpretation of East African history in this period is based on the assumption that Kirk was right: that the best hope of the African inhabitants lay in the continuance and development of the co-operation between the sultan of Zanzibar and the British consul-general, and that this hope was tragically shattered when the Germans, caring for no interests but their own, burst upon the scene.[2] From this point of view the best that can be said for the British Government's policy of acquiescing in the German incursion is that resistance was impossible, the general international situation at that time being what it was.[3] But this interpretation is inadequate, for it is based entirely on the opinions of a single actor in the drama, Sir John Kirk, as expressed in his despatches. Hore, it is true, agreed with Kirk on essentials, and that is doubtless why Kirk found him such a congenial correspondent. But the other missionaries were in fundamental disagreement. While recognizing the unavoidable need to maintain amicable personal relations with the leading Arabs in the interior, they refused to believe it possible that Zanzibar,

[1] L.M.S., C.A., 6.1.C: Hore to Thompson, 21 March 1885.

[2] Coupland, *op. cit.*, especially chapters xii and xvii.

[3] The impossibility of an uncompromising British stand in support of the sultan's 'rights' in the interior is sufficiently explained by Dr. M. E. Townsend in her *Rise and Fall of Germany's Colonial Empire, 1884–1918* (New York, 1930), pp. 101–9.

which had grown prosperous by sucking the life-blood of Africa, could ever become the benefactor of the peoples she had harried and oppressed. Swann, who assisted and succeeded Hore in charge of the mission steamer, described Zanzibar with rhetorical fervour as 'the black spot in the civilized world, a curse to Africa and disgrace to Britain'.[1] He and his colleagues, with the single exception of Hore, were agreed that the influence of Swahilis—half-castes from the coast—was thoroughly corrupting when brought to bear on the unsophisticated native of the interior, and that even the use of the Swahili language should be avoided at the mission stations, since 'wherever it was introduced the customs of Mohammedanism were certain to follow'.[2] Nor was this attitude confined to the L.M.S., for Shergold Smith of the C.M.S. wrote to Kirk from Uganda: 'I can conceive no greater bar to Christianity and civilization than the inroad of Mohammedan ideas.'[3] And perhaps the most carefully reasoned and convincing statement on the subject came from a distinguished member of the Universities' Mission to Central Africa, Chauncy Maples, the first Bishop of Likoma.[4]

There seems little doubt that the almost unanimous opinion of the missionaries was right, and that Kirk and Hore were wrong. Recent research on the history of Zanzibar itself confirms this conclusion, for it has shown that the whole system of government there was, as Sir Gerald Portal declared, calculated to 'encourage and facilitate robbery, extortion, corruption, and iniquity of every description'.[5] The conclusions reached by Portal at Zanzibar, when he took charge of its administration after it became a British Protectorate, appropriately complement those reached on the shores of Lake Tanganyika by Swann and his companions.

It seems clear, then, that East Central Africa could hope for little or nothing at the hands of Zanzibar. It could have had little prospect of emerging from barbarism and slavery for many gen-

[1] L.M.S., C.A., 7.4.A: Swann to Thompson, 30 Jan. 1889.

[2] L.M.S., C.A., 7.4.B: Jones to Thompson, 23 Jan. 1889.

[3] F.O. 84/1518: Kirk to Derby, No. 6, 7 Jan. 1878.

[4] *Journals and Papers of Chauncy Maples*, ed. Ellen Maples (London, 1899), pp. 246–8. The subject of Swahili culture as it affected mission work is discussed more fully in my Ph.D. Thesis (London, 1948), pp. 226–32.

[5] L. W. Hollingsworth: *Zanzibar under the Foreign Office, 1890–1913* (London, 1953), pp. 57–71, 92–3; also chapter ix.

erations, had not Europe intervened directly in its affairs.[1] This does not, of course, afford any excuse for the unprincipled methods by which the Germans seized what they wanted, or for

[1] Even Kirk himself regarded indirect British action, exercised through the sultan of Zanzibar, as merely a second-best policy, less satisfactory than action undertaken directly by Britain herself or by a British chartered company. His opposition to Germany's proceedings in East Africa was due not so much to concern for the sultan as to a desire to prevent the displacement of British influence by German rule.

Had it been otherwise, he would not have looked sympathetically, as he did, on a proposal to annex the region around Mount Kilimanjaro to Britain. The proposal was made by H. H. Johnston, after an expedition to Kilimanjaro, in 1884. Commenting upon it for the guidance of the Foreign Office, Kirk called attention to certain serious objections: first, the need for a port (Mombasa or Tanga) as a means of access: this could not be seized without violating the Anglo-French declaration of 1862, which recognized the sultan's sovereignty over the coast; secondly, the certainty that the proposed British annexation, if made, would be the signal for a general rush of European Powers to partition the sultan's 'dominions'; and thirdly, the fact that such action would 'alter at once our relations with the Sultan, and, if not at once followed up, give him an opportunity (of which he certainly would then avail himself) of occupying the country or causing trouble and intrigue.' (In connection with this last objection, Kirk made a revealing remark about the sultan's authority in the interior. 'His power for mischief, if he wished to use it, is immense, although he has none to give protection.') In view of these practical difficulties, and of others (such as the need to build a railway, and probably to fight the Masai), Kirk thought the proposal unwise.

But these were reasons of policy, not of principle. Personal loyalty to Barghash has no place in the argument, nor does Kirk concern himself about the interests of Zanzibar, if it is from Britain that the challenge to them comes. 'For my part,' he wrote, 'I should be delighted to see an advance made, but not exactly in the way Mr. Johnston proposed.' If the European scramble which already seemed to be impending did take place, Chaga (the Kilimanjaro country) was 'by far the most inviting spot', and was 'the point we should choose if the division comes and if we are threatened with having the East African markets closed against us'. In the meantime, British missionaries and sportsmen should be encouraged to enter the region, so that their presence would make the British claims to it more plausible if the time to press those claims should come.

'It is a pity', wrote Kirk, 'we hauled the British flag down on Mombasa when we held it under cession in 1820 from the chiefs, and recalled the agent left in charge by Captain Owen. Had we kept Mombasa and the whole coast then ceded to us, the slave question would have been settled and by this time we should have had dominion over tropical Africa.' F.O. 84/1679: Kirk to Anderson, 24 Nov. 1884; also Kirk to Granville, No. 151, 23 Nov. 1884.

the acts of oppression of which they in their turn were guilty.[1] Yet there was sound judgement underlying Swann's rhetoric when he declaimed: 'It was no mere accident [that] the Germans coveted Usagara. God made them want it.' In the more prosaic language of ordinary historiography, the coming of the Germans was much better for the native African inhabitants than a continuance of the Arab ascendancy. And Swann showed his sincerity by his cheerfulness in accepting the complete isolation from the civilized world which the mission experienced during the Anglo-German blockade of the coast in 1889,[2] with the accompanying danger that the Arabs might murder the Europeans in the interior as an act of revenge. It was, he thought, a small price to pay for 'the opening of Freedom's doors to millions of our brethren'.[3]

Naturally Swann preferred that European intervention should be British rather than German, and although the Society he represented was strictly non-political, and afterwards censured him for his action, he made a bold bid to secure the north end of Tanganyika for Britain.[4] The treaties which he made with the chiefs in that region reached London too late to affect the political map of Africa, and, apart from this fruitless effort, his only direct share in the partitioning of that continent was the conveying of H. H. Johnston in the steel sailing-boat along the south coast of the lake, to facilitate Johnston's work of making treaties. As for his colleagues, they were not involved in these affairs at all. Nevertheless

[1] As a matter of fact, German rule, once established, was to a large extent beneficent, especially in the years immediately before 1914. See Townsend, *op cit.*, especially chapter x.

[2] The purpose of the blockade was to stop the importation of arms and ammunition into the mainland while the Germans were struggling to put down a serious Swahili uprising (the Bushiri revolt) against their assumption of authority. Lord Salisbury did not in the least favour the blockade, but he thought it well to co-operate with the Germans in order to have some chance of restraining them (F.O. 84/1912: Telegrams No. 48 of 11 Oct. and No. 53 of 15 Oct., to Euan Smith at Zanzibar: both drafted in Salisbury's own hand). By the middle of 1889 the revolt was quelled, and the blockade ended on 1 Oct., having lasted almost a year.

[3] L.M.S., C.A., 7.4.C: Swann to Thompson, 14 Aug. 1889; 8.1.C: S. to T., 24 Aug. 1890.—The isolation of the mission was rendered complete by the action of the Portuguese, for reasons of their own, in blocking the Shiré.

[4] Swann, *Fighting the Slave Hunters* (London, 1910), pp. 203–42; also my thesis, pp. 370–5.

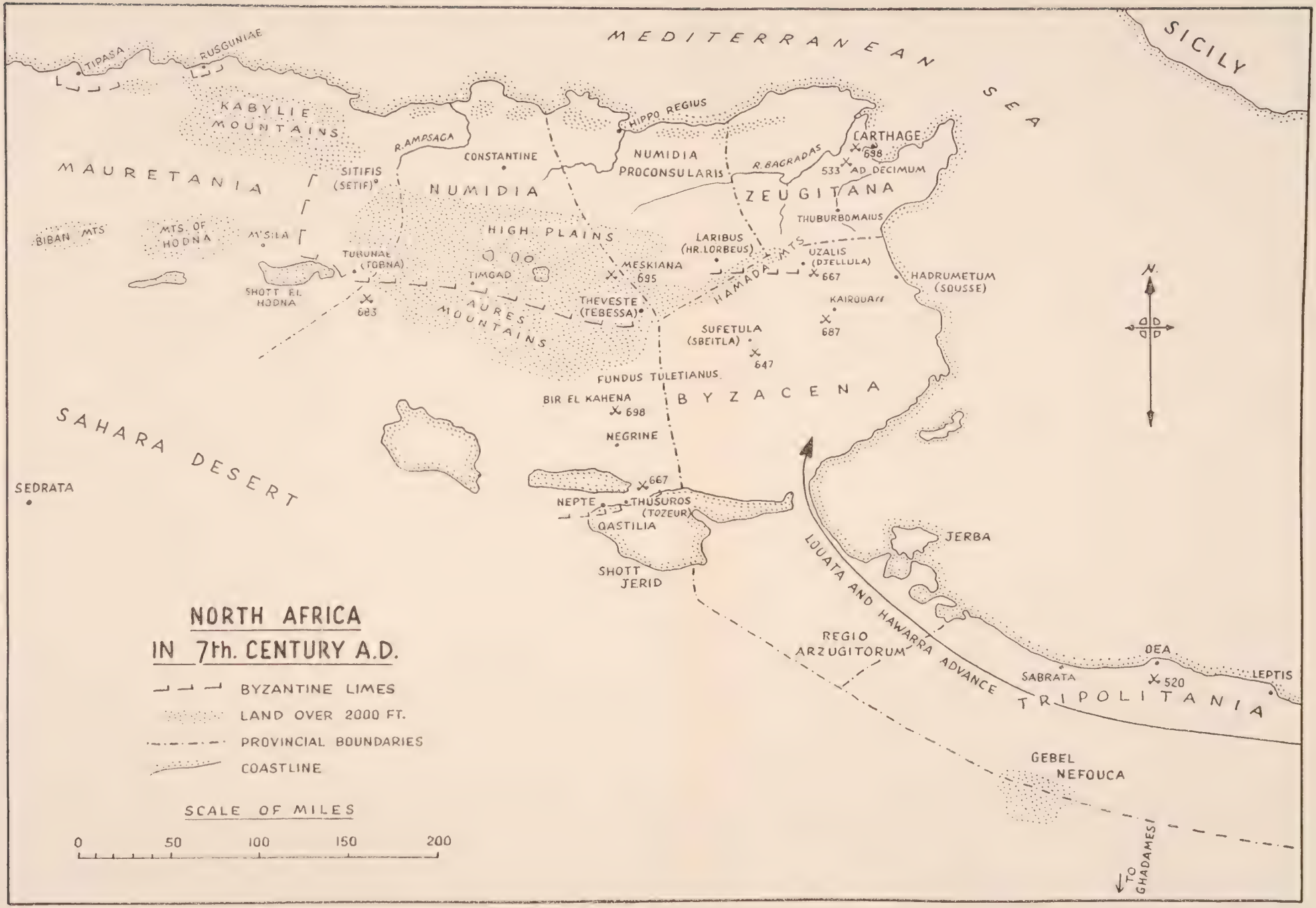
the mission, by its mere existence, constituted a British interest, and so did the Stevenson Road which its existence had called into being. Recognition of this fact, rather than any particular concern for the evangelization of the people among whom the mission worked, was presumably what prompted Kirk to write an earnest letter to the Directors in 1885, urging them not to withdraw from Central Africa, as at that time they were seriously thinking of doing in view of the disastrous losses that had recently been sustained through sickness and death.[1] Had it not been for the presence of the L.M.S., it is almost certain that the boundary of Northern Rhodesia would not have run anything like as far north as the shores of Lake Tanganyika, and the Nyasa-Tanganyika plateau would have been acquired by Germany.[2]

After 1890, in accordance with the Anglo-German Agreement concluded on 1 July, the mission found itself settled in what had become a British 'sphere of influence', where the responsibility for administration was about to devolve upon the British South Africa Company. Some years were to pass before the Company was really in effective control of the mission-field, and pioneering conditions, with their attendant secular responsibilities, continued until after the turn of the century. But by 1890 it was evident that the old Arab ascendancy was doomed, and that the slave trade and slavery itself would soon be banished from Central Africa. The missionaries, seeing that this was so, looked upon it as a triumph of Christian civilization over the powers of darkness, and rejoiced. 'Civilization is advancing rapidly on all hands,' exclaimed Swann. 'What does it mean, Sir? Is not God about to answer the cry of Africans? I think so.'[3]

[1] L.M.S., C.A., 6.2.A: Kirk to Thompson, 31 Aug. 1885. 'This', declared Kirk, 'is not the time to think of going back. Africa is not a healthy place, but if missionaries are afraid to live in it, officials are not, and traders are flocking in.' His letter, together with equally forceful pleas from Hore and Swann, reached London on the very morning when the Board was to decide the future of the mission, and determined the outcome (L.M.S., Southern, outgoing; Thompson to Hore, 2 Oct. 1885).

[2] As explained in my thesis, pp. 375–9.

[3] L.M.S., C.A., 8.1.C.: Swann to Thompson, 24 Aug. 1890.


MEDITERRANEAN SEA
SICILY
TIPASA
RUSGUNIAE
KABYLIE MOUNTAINS
MAURETANIA
SITIFIS (SETIF)
R. AMPSAGA
CONSTANTINE
NUMIDIA
HIPPO REGIUS
NUMIDIA PROCONSULARIS
CARTHAGE
698
R. BAGRADAS
533
AD DECIMUM
ZEUGITANA
THUBURBOMAIUS
BIBAN MTS
MTS. OF HODNA
M'SILA
HIGH PLAINS
LARIBUS (HR. LORBEUS)
UZALIS (DJELLULA)
667
HADRUMETUM (SOUSSE)
TUBUNAE (TOBNA)
MESKIANA
695
HAMADA MTS
SHOTT EL HODNA
683
TIMGAD
AURES MOUNTAINS
THEVESTE (TEBESSA)
KAIROUAN
687
SUFETULA (SBEITLA)
647
FUNDUS TULETIANUS
BIR EL KAHENA
698
BYZACENA
SAHARA DESERT
NEGRINE
SEDRATA
667
NEPTE
THUSUROS (TOZEUR)
QASTILIA
SHOTT JERID
JERBA
LOUATA AND HAWARRA ADVANCE
REGIO ARZUGITORUM
OEA
520
SABRATA
LEPTIS
TRIPOLITANIA
GEBEL NEFOUCA
TO GHADAMES
N.
NORTH AFRICA
IN 7th. CENTURY A.D.
BYZANTINE LIMES
LAND OVER 2000 FT.
PROVINCIAL BOUNDARIES
COASTLINE
SCALE OF MILES
0
50
100
150
200

NORTH AFRICA AND EUROPE IN THE EARLY MIDDLE AGES

By W. H. C. Frend, M.A., D.Phil., F.S.A.

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RECENT discussions about Mediterranean trade in the early Middle Ages have tended to be based on two main assumptions. First, trade has been regarded as trade between ports in the eastern and western parts of the Mediterranean. Secondly, as a result of this view, the attention of historians has concentrated on the advance of the Arab fleets in the seventh and eighth centuries, which disrupted regular commerce and temporarily diminished the importance of the trading cities of Italy and Provence.[1]

My object in this paper is to supplement rather than to dispute that point of view. North Africa played an important and sometimes a decisive part in the policies of Rome and Byzantium down to the middle of the seventh century. Apart from its strategic importance, it produced goods which were in constant demand among the Mediterranean peoples throughout this period, and which had to be transported by sea. These included grain for Rome, olive oil for use in the public baths and for domestic cooking, cleaning, and lighting, and marble from the quarries at Simitthu (Chemtou). In the Byzantine period, camels were

[1] Of the abundant literature, see H. Pirenne, 'Mahomet et Charlemagne', *Revue Belge de Philologie et d'Histoire*, i (1922), 77–86, and 'Un Contraste économique: Mérovingiens et Carolingiens', *ibid.*, i (1923), 223–35; also Pirenne's final statement in *Mahomet and Charlemagne* (Engl. tr., London, 1939). Discussed by E. Sabbe, 'L'Importation des tissus orientaux en Europe occidentale au Haut Moyen Age', *Rev. Belge*, xiv (1935), 811–48; P. Lambrechts, 'Les Thèses de Henri Pirenne sur la fin du monde antique et les débuts du moyen âge', *Byzantion*, xiv (1939), 513–36; R. S. Lopez, 'Mahomet and Charlemagne', *Speculum*, xviii (1943), 14–38, and D. C. Dennett, 'Pirenne and Muhammed', *ibid.*, xxiii (1948), 165–90: in addition the able reviews published in the *Journal of Roman Studies* (= *JRS*), by N. H. Baynes, xix (1929), 224–35, and A. Momigliano, xxxiv (1944), 157–8.

employed as draught animals in Gaul and Spain.[1] These exports, together with a teeming native population, placed North Africa in a key position among the western provinces of the Empire. It fully deserved the importance which successive emperors from Constantine to Heraclius attached to its loyalty.[2]

One may ask whether the depredations of the Arab fleets and the activities of the first Arab governors during the eighth century were sufficient in themselves to account for the decline of these links between North Africa and Europe. We know, for instance, from the sources used by the ninth-century Arab historian Ibn Abd al Hakam[3] that even at the end of the Byzantine occupation Africa was still a vital source for the supply of olive oil to the Byzantine dominions. Two centuries later this was evidently no longer the case. In 879 we hear of a North African convoy carrying oil bound for Sicily being successfully raided by the Byzantines, but that the captured olive oil was not particularly welcome in Constantinople. In the intervening two hundred years the Byzantines had been obliged to seek for their supplies elsewhere, and the arrival of this windfall caused a glut on the market.[4] Yet as D. C. Dennett has pointed out, neither in the Koran, nor in the sayings of the Prophet, nor in the acts of the first Caliphs, nor in the opinions of the Muslim jurists is there any prohibition against trading with the Christians or unbelievers.[5] Naval operations in the Mediterranean by the Arabs appear to have been spasmodic and hardly calculated to disturb well-established commerce. Products from the Ummayad dominions such as papyrus from Egypt continued to reach Europe,[6] and Venetian fabrics were worn at

[1] For camels, Gregory of Tours, *Historia Francorum*, vii. 35 (ed. Arndt in *Mon. Germ. Hist.*, *Scriptores Rerum Merovingicarum*, i. 315), and Julian of Toledo, *Historia Wambae*, 30 (ed. Levison in *M.G.H.*, *Scriptores Rerum Merovingicarum*, v. 525). In general, R. M. Haywood, *Economic Survey of Ancient Rome, North Africa* (Baltimore, 1938), and R. Cagnat, 'L'Annone d'Afrique', *Mémoires de l'Académie des Inscriptions*, xl (1916), 247–77.

[2] Ammianus Marcellinus, *Rerum Gestarum*, xxi. 7.2: 'Africa . . . ad omnes casus principibus opportuna'; R. Cagnat, *op. cit.*, pp. 250–1.

[3] Ibn Abd al Hakam, *Futûh Ifrîqiya wa'l Andalus* (ed. and tr. A. Gateau. Algiers, 1942), pp. 44–5.

[4] Cited from Pirenne, *Mahomet and Charlemagne*, p. 181.

[5] D. C. Dennett, *art. cit.*, p. 168. On the desultory character of Arab naval operations in the western Mediterranean, *ibid.*, pp. 170–1.

[6] *Ibid.*, p. 174. See also R. S. Lopez in *Cambridge Economic History of Europe*, ii. 275–7.

the court of Baghdad.[1] In North Africa itself the early Moslem governors such as Musa ben Nuçair (698–711) continued to strike a gold coinage of Byzantine style, an indication perhaps that they did not intend to obstruct commerce between their provinces and the rest of the world.

One must lock, therefore, for other causes which contributed to the removal of North Africa from the European to the Middle Eastern orbit during the early Middle Ages. In the writer's view, the main factor in this process, and one which has previously been underestimated, was the impetus which the Arab victories gave to nomadism. The nomad and the transhumant gradually replaced the settled farmer as the occupier of the soil in the territories which the Arabs overran. In this process the supply of agricultural products, such as olive oil and grain on which trade between countries bordering on the Mediterranean depended, was gradually cut off. In no other area were the consequences more marked than in North Africa.

It will be recalled that from the end of the fourth century A.D. until the great Arab invasions of the seventh century, the most persistent threat which Rome (or the Vandal Kingdom in Africa) had to face along the southern and south-eastern *limes* of the empire had been confederations of nomadic tribes. These had gradually come to dominate the steppes that lay immediately beyond the Roman frontier. Ghassanids, Saracens and Arabs on the borders of Syria and Palestine, Blemmyes in the deserts on either side of the Nile valley, Louata in Cyrenaica and Austures in Tripolitania, all these were possible enemies who had either to be overawed or bribed into quiescence. They were an ever-present menace to the Byzantines, and the victory of the Arab armies all along this frontier was indirectly their victory.

These events destroyed the uneasy balance which had existed in favour of the farmer during the five centuries of Roman and Byzantine rule. Henceforth, for more than a thousand years, the nomad with his destructive flocks of sheep and goats was lord of the arid but once richly cultivated plains. The fruit and olive trees

[1] *The Arabian Nights* (ed. Lane. London, 1889), ii. 85. Cf. F. L. Ganshof, 'Notes sur les ports de Provence du VIII^e au X^e siècle', *Revue Historique* (1938), 28–37.

planted by the farmers in the Negev and Numidia were gradually cut down as firewood or nibbled away by goats. The desert returned.[1] The farmer was pushed on to the defensive whence he did not emerge until the assertion of European influences during the last century.

In North Africa the Arab invasions led to two important results. First, communications and also cultural influences which previously had centred on Rome and Constantinople now tended to flow from east to west along the inland desert routes favoured by the Arab armies. Cairo became the source of cultural and religious inspiration to the North African Moslem and has remained so ever since. From the point of view of trade, the chain of oases that stretch along the 29th parallel from Siwa to Khufra and across Fezzan to Ghadames became as important as the old-established Mediterranean ports, and the first generation of Arab leaders in the seventh century took care to impose treaties of subjection on these oasis inhabitants.[2] Secondly, the withdrawal of the Byzantine garrisons from the massive fortresses on the frontiers and in the interior of the African provinces, probably between 647 and 680, left the native farmer without adequate protection.[3] The Berber nomads moved in along the coastal plain in the wake of the Arab invaders. The sedentary population either withdrew to the mountains or fell under their domination. The landward advance of these nomadic tribes was of far greater immediate consequence in the history of North Africa than the fluctuating fortunes of the Arab and Byzantine fleets.

The course of events has been graphically described in the Berber tradition which Ibn Abd al Hakam drew upon.

> The Louata (he says) later split up and spread over this part of Maghreb (i.e. Tripolitania and Tunisia) until they reached

[1] Ibn Khaldoun, *Les Prolegomènes historiques* (tr. de Slane. Paris, 1863–8), i. 310.

[2] Ibn Abd al Hakam, *op. cit.*, p. 57.

[3] The dating of this phase of the history of North Africa is obscure. There seem to have been some organized Byzantine forces in the field as late as 683, when Sekerdid the Roum is mentioned as the ally of the Berber leader Koçeila in battles against the Arabs (Ibn Khaldoun, *Histoire des Berbères*, ed. de Slane (Algiers, 1852–6), i. 211, 288). On the other hand, the important fortresses placed near the south Tunisian shotts, such as Tozeur (Thusuros) and Nefta (Nepte), seem to have been abandoned about 667 (L. Poinssot, *Bull. archéologique du Comité des Travaux historiques* (= *B.A.C.*), 1940, Séance de 27 mai, pp. v–ix).

> Sousse. The Hawarra established themselves at Lebda and the Nefusa in the territory of Sabratha. The Rûm who were occupying these lands were forced to leave, but the Afariq who were subject to the Rûm remained, paying a tribute which they were accustomed to render to all who occupied their country.[1]

The Rûm were the Byzantines, and the Afariq the Latin-speaking Berbers. The great nomadic tribes of the Louata and Hawarra dominate the scene. The native inhabitants exchange subjection to a centralized and autocratic administration in favour of subjection to a nomadic host.

Let us now turn to the detail of these events, and follow out the fortunes of the native farmers who produced North Africa's most important single crop in late Roman and Byzantine times—olive oil.

The North African provinces were the chief source for the supply of olive oil to the western Mediterranean countries from the third to the fifth centuries, and they continued to be an important source until the end of the Byzantine occupation. Innumerable farms and villages containing olive presses of this period have been found all over the northern half of the African steppes. These latter extend in a broad band from the Babor and Biban mountains and the Shott el Hodna in the west as far as the Tripolitanian Gebel in the east. They include the Constantinian high plains which lie between the Aurès mountains and the coastal Atlas, and the great open expanse of central Tunisia. In Roman and Byzantine times they covered the southern part of the provinces of Mauretania Sitifensis and Numidia, practically the whole of Byzacena, and part of Tripolitania. The climate, except probably immediately south of the Aurès mountains and in some parts of Tripolitania where it has become drier, has not changed in historical times.[2] The rainfall over the most favoured areas is seldom more than twenty inches a year, and the more general average is between eight and fifteen inches. To some extent, the effect of this

[1] Ibn Abd al Hakam, *op. cit.*, p. 31. Cf. D. Oates, 'The Tripolitanian Gebel: settlement of the Roman period around Gasr ed-Dauun', *Papers of the British School at Rome*, xxi (1953), 113. The Hawarra were still in the area of Leptis in the eleventh century. See El-Edrisi, *Description de l'Afrique et de l'Espagne* (ed. R. Dozy and de Goeje, Leyden, 1866), p. 154.

[2] See S. Gsell, *L'Histoire ancienne de l'Afrique du Nord*, i (Paris, 1913), pp. 53–99, and A. N. Sherwin-White, 'Geographical Factors in Roman Algeria', *JRS*, xxxiv (1944), 1–10.

is offset by the presence of water-tables near the surface, but settled agriculture is always difficult. Drought and the salty nature of much of the soil has prevented the growth of an urban civilization based on mixed farming, such as developed in the Tunisian river valleys. This great area of country has always been the debatable land between nomad and settler. Its flatness and the vast expanses, coupled with the prevalence of drought, makes retrogression easy. Agriculture depends entirely on the natives' will to maintain the wells and irrigation channels, and that in turn depends on the amount of protection and encouragement provided by the administration.

In the first three centuries A.D. the Roman authorities applied a deliberate policy of settling the natives on the land. The movements of nomadic tribes were restricted, recalcitrants were expelled beyond the *limes*, penalties were imposed on sheep farmers who allowed their flocks to stray on to cultivated land.[1] Through decisions known as the *Lex Manciana* and the *Sermo Procuratorum* parts which had once been regarded as waste were leased to the native farmers on attractive terms.[2] By the end of the reign of Septimius Severus (A.D. 193–211) the whole of the high plains from the Hodna mountains to the gulf of Sirte had been protected from incursions from the Sahara tribes by a well-defended *limes* whose outlying forts, such as Messad, were placed at the furthest limits of the habitable steppe.[3] These measures were successful. For most of the third century Roman Africa and especially Numidia shared the distinction with Roman Britain of being a military backwater.[4]

The result was the steady growth of farming communities, living either as Mancian *coloni* on the great imperial or senatorial estates, or settled as farmer-soldiers (*limitanei*) near the forts on the frontier. Olives, whose trees drive their roots deep into the subsoil, were found to be the most productive crop, and enormous

[1] *CIL*, viii. 23956, l. 14 (Henchir Snobbeur).

[2] Best studied in Tenney Frank's two articles in the *American Journal of Philology* (= *AJP*), xlvii (1926), 'The Inscriptions of the Imperial Domains of Africa', pp. 55–73, and 'A Commentary on the Inscription from Henchir Mettich', pp. 153–70. See also J. Carcopino, 'L'Inscription d'Ain el Djemala', *Mélanges d'archéologie et d'histoire de l'Ecole française de Rome* (= *Mélanges*), xxvi (1906), 365 ff.

[3] Beautifully illustrated in J. Baradez' *Fossatum Africae* (Paris, 1949).

[4] Eric Birley, 'The Governors of Numidia', *JRS*, xl (1950), 68.

quantities were grown in places which to-day are desert. Archaeological evidence from Tripolitania,[1] Numidia,[2] and Mauretania Sitifensis[3] points to the middle or the end of the third century as the time when the villages began to expand and prosper. Their development is thus in direct contrast to that of the African towns. Their prosperity was, however, firmly based on the export of their oil, and when in about 350 the writer of the *Expositio totius mundi et rerum* declared that the province of Africa supplied the world with oil almost alone, he was not exaggerating.[4] We know, for instance, from St. Augustine that Italy depended on African oil for lighting,[5] and from other contemporary sources such as Symmachus and the *Codex Theodosianus* that this had the same importance as African wheat in the provisioning of Rome.[6]

A certain amount is known about the organization of these exports. The deliveries destined for Rome were handled by the state corporation of the *naviculariі*. Evidence for eight groups who traded with African ports at the end of the second century has been found at Ostia,[7] and even earlier an inscription from Rome refers to an association of *mercatores frumentarii et olearii Afrarii*.[8] As Cagnat points out, the demands of Rome must have entailed in themselves a very large production of olive oil.[9] Landowners and the bailiffs of imperial estates in Africa seem to have benefited

[1] R. G. Goodchild and J. B. Ward Perkins, 'The Limes of Tripolitanus in the light of recent discoveries', *JRS*, xxxix (1949), 81–95, at p. 93.

[2] J. Guey, 'Note sur le "limes" romain de Numidie et le Sahara au IV^e siècle', *Mélanges*, lvii (1939), 178–248, pp. 221 ff.

[3] J. Carcopino, 'Les Castella de la plaine de Sétif', *Revue Africaine*, lxii (1918), 1–22.

[4] Ed. G. Lumbroso (Rome, 1903), p. 81; 'Paene ipsa (Africa) omnibus gentium usum olei praestat.'

[5] Augustine, *De Ordine*, i. 3.6 (Migne, *Pat. Lat.*, xxxii. 981). See E. Albertini, *Mélanges Paul Thomas* (Bruges, 1930), pp. 1–5.

[6] *Codex Theodosianus*, xiv. 15.3 (Ad Senatum, 15 April 397); Symmachus, *Ep.* ix. 55 and x. 55. See also the present writer's *The Donatist Church* (Oxford, 1952), pp. 47 ff.

[7] G. Calza, 'Il Piazzale delle Corporazione e la funzione commerciale di Ostia', *Bull. della Commissione archeologica communale di Roma*, xliii (1916), 187. On the dating, F. Walbank in *Cambridge Econ. Hist.*, ii. 47. A mosaic in the museum at Tébessa shows a galley laden with amphorae under sail, with an inscription *Fortuna Redux*.

[8] *CIL*, vi. 1625, 1626. Cf. ii. 1180. Dating probably end second century.

[9] Cagnat, *op. cit.*, p. 257. Also H. Camps-Fabrer, *L'Olivier et l'huile dans l'Afrique romaine* (Algiers, 1953), pp. 70 ff.

considerably from the export in bulk, for the exploration both of the Theveste (Tébessa) area and more recently of the Gebel escarpment of Tripolitania has revealed a close association of large-scale olive farms with lavishly-built houses often with private mausolea standing near by.[1] Those at Ghirza are an exceptionally fine example dating to the fourth century.[2] Much farther west, Madouros seems to have been one of the centres to which the Numidian olive crop at this time was sent for export.[3] The smaller producer also shared in the network of trade connections between North Africa and Europe. Oil lamps made in the comparatively unimportant settlement of Henchir es Srira in Byzacena have been found at Palermo, Syracuse and even Rome.[4] The itinerant merchant whom we learn from Synesius[5] acted as middleman between native producer in Cyrenaica and markets abroad probably had a similar rôle in North Africa. All available indications suggest that in the last century of the Roman Empire in the west, North Africa was one of the pivots of the economy of the whole Mediterranean area.

As Baynes points out,[6] the Vandal invasion of 429 brought this situation to a halt. Contemporaries such as Salvian or his African source regarded the Vandals as 'cutting off the vital channels of the Empire',[7] and for thirty-five years, from 440 to 475, the Vandal fleet was in control of the Mediterranean. The sack of Rome in 455 and the pillage of the Greek coastal towns which Procopius

[1] R. G. Goodchild, 'Roman Sites on the Tarhuna Plateau of Tripolitania', *Papers of the British School at Rome*, xix. 41–77. For the Theveste area, Commandant Guenin, 'Inventaire archéologique du Cercle de Tébessa', *Nouvelles archives des Missions scientifiques*, xvii (1909), 75–234.

[2] Illustrated by O. Brogan, *Illustrated London News*, 22 and 29 January 1955.

[3] See M. Christofle, *Essai de restitution d'un moulin à huile de l'époque romaine à Madaure* (Algiers, 1930).

[4] L. Hautecoeur, 'Les ruines d'Henchir-es-Srira', *Mélanges*, xxix (1909), 383 ff. The African abroad was proud of his title 'civis Afer negotians' (*CIL*, iii. 5230).

[5] Synesius, *Ep.* 52.

[6] N. H. Baynes in *JRS*, xix (1929), 234; also J. B. Bury, *The Invasion of Europe by the Barbarians* (London, 1928), pp. 123–4.

[7] Salvian, *De Dei Gubernatione*, vi. 12, 68; 'Postremo, ne qua pars mundi exitialibus malis esset immunis, (populi Wandalorum) navigare per fluctus bella coeperunt; quae vastatis urbibus mari clausis et eversis Sicilia et Sardinia, id est fiscalibus horreis, atque abcisis velut vitalibus venis Africam ipsam, id est quasi animam captivavere reipublicae.'

records[1] may be compared with similar activities by the Saracen fleet four centuries later. But the disruption of trade between North Africa and the rest of the Mediterranean was only temporary. Gaiseric's policy we know from the contemporary work of Victor Vitensis was directed against the Catholic Church and the senatorial landowners whom he identified with it.[2] It would be tempting to associate the decline of the coastal cities and the great olive farms of southern Tunisia and Tripolitania in these years with the effects of this policy, as well as with the raids of the nomadic Austures. But the two essentials for the maintenance of trade, the existence of an exportable surplus made available by the primary producers, and of merchants to handle it, were less seriously affected.

Archaeological evidence has added to what we know from literary sources about the condition of the people under Vandal rule. The detailed analysis of the *Tablettes Albertini*, discovered in a remote area sixty miles south of Tébessa, has provided interesting evidence for the comparative prosperity of the native farmers under the later Vandal kings.[3] They also testify to the continuity of Roman legal institutions and the Latin language at this time. The fifty wooden tablets which were unearthed are dated precisely to the latter years of King Gunthamund, A.D. 486–96. They were used as the deeds witnessing the buying and selling of small plots of land in the area. They show that at this period the district was known as the *Fundus Tuletianus*, and that its inhabitants were not petty nomads as they are to-day but *coloni* possessed of rights derived from the *Lex Manciana* which their ancestors had obtained three centuries before. In return for the payment of a rent in kind they had the right of 'freely enjoying, bequeathing and disposing of their holdings'.[4] They were

[1] Procopius, *De bello Vandalico*, iii. 22. 15.

[2] Victor Vitensis, *Historia persecutionis*, i. 4. Roman state organizations such as the *navicularii* evidently went out of business in this period. See C. Courtois, 'De Rome a l'Islam', *Revue Africaine*, lxxxvi (1942), 27.

[3] *Tablettes Albertini*, ed. C. Courtois, L. Leschi, C. Perrat, and C. Saumagne, published on behalf of the Government General of Algeria by Arts et Métiers, 1952. E. Albertini's article in the *Journal de Savants*, Jan. 1930, on the preliminary results of the discovery is still valuable.

[4] *Tablettes Albertini*, p. 84. In all the transactions the vendor is described as selling his rights to the purchaser in the formula 'ut [is] eam rem habeat, teneat, possideat, utatur, fruatur, ipse heredesve eius in perpetuum'. Cf. Tenney Frank, *AJP*, xlvii (1926), 166.

evidently not tied to a particular plot of ground. Their main assets as revealed in almost every transaction were plantations of olive trees and figs.[1] In contrast, caravans of nomads were something of a curiosity. The name *via de camellos* mentioned in one of the contracts indicates the existence of a track which these caravans would be using.[2] Their presence does not seem to have given rise to alarm. It has been pointed out that the language and legal formulae used on these records have similarities with those in use in Visigothic Gaul and Spain.[3] No more than in those countries did the presence of a Germanic barbarian kingdom break the continuity of Roman civilization and institutions.

These farming communities on the edge of the Sahara were producing olive oil which continued to be marketed in Italy in the first part of the sixth century. From Cassiodorus (*Variae*, iii. 7) we learn of the onward transhipment of cargoes of oil for filling lamps in churches from Italy to Salona,[4] and Procopius refers to communities of merchants from Constantinople living in Carthage.[5] There were also African irrigation experts resident in Rome at this time.[6] We gather too from Victor Vitensis that in the latter half of the fifth century communications between Africa and Spain were open once more,[7] and an interesting piece of evidence of how North Africa continued to play a part in the general Mediterranean economy comes from Tipasa, a small port some thirty-five miles west of Algiers. In the immense cemetery which grew up from the fourth century onwards around the tomb of the martyr Salsa were graves, attributable to the Vandal period, of travellers from Tripolis in Syria and from Italy.[8] They are reminders of the existence of long-distance travel and trade between Vandal Africa and the rest of the Mediterranean world.

In the last twenty years of Vandal rule a new factor was making itself felt in the settled areas. This was the pressure of a great con-

[1] *Tablettes Albertini*, pp. 201 ff. [2] *Ibid.*, pp. 192–3. [3] *Ibid.*, p. 175.

[4] Cassiodorus does not say that the oil came from Africa, but he uses the term *orcae* in which the African oil was shipped. I am accepting Pirenne's view (*op. cit.*, p. 93) that the merchant John who was supplying the bishop of Salona originally got his cargo from Africa (Cassiodorus, *Variae*, iii. 7; ed. Mommsen in *M.G.H.*, *Auct. Antiq.*, xii. 83).

[5] Procopius, *De bello Vandalico*, iii. 20. 5 and 16.

[6] Cassiodorus, *Variae*, iii. 53.

[7] Victor Vitensis, *Historia persecutionis*, iii. 29.

[8] L. Leschi, *Tipasa* (Algiers, 1948), pp. 48 ff.

federation of nomadic tribes known as the Louata, resulting from their westward movement from Cyrenaica. It is not my intention to add to the discussion as to when the camel became a menace to civilized life in North Africa or when the Louata first enter on the scene.[1] It is difficult to-day to accept the view that the camel was actually re-introduced into Africa during the Roman occupation.[2] It seems to have been used as a domestic beast in small numbers in pre-Roman times, and to have continued as such, particularly in the southern part of the country.[3] On the other hand, it would be unwise to see in the raids of the Austurian tribesmen on Leptis Magna and Sabratha in 364–5 a starting-point in the decline of agricultural settlement in North Africa.[4] As one scholar has pointed out, in Tripolitania the country remained Christian, populous and agriculturally prosperous for another century and a half.[5] The same may also be said of the arid wastes beyond the southern *limes* of Numidia.[6] This could hardly have been the case if the area was dominated by hostile nomadic tribesmen. It seems evident that the Vandals had had no experience in dealing with a camel-mounted host when they rashly attacked Cabao's Louata tribesmen near Leptis Magna (*c.* 520). The defeat they suffered as a

[1] A study on the early history of the Louata is badly needed. They appear to have spread across the Gulf of Sirte from Cyrenaica during the fifth century until they reached the area of Leptis Magna *c.* 500. References to them have been collected by O. Bates, *The Eastern Libyans* (London, 1914), pp. 69–70.

[2] Suggested in a well-documented article by S. Gsell, 'La Tripolitaine et le Sahara au III^e^ siècle de notre ère', *Mémoires de l'Académie des Inscriptions*, xliii (1933). See also the valuable discussion of the evidence by L. Leschi, *Rome et les Nomades du Sahara central* (Algiers, 1942), and E. F. Gautier's forceful pages in *Le Passé de l'Afrique du Nord* (Paris, 1937), pp. 210–14.

[3] Caesar, for instance, in *Bellum Africum*, 68.4, reports the capture of twenty-two camels which belonged to King Juba.

[4] Ammianus Marcellinus, xxviii. 6. Cf. Oates, *art. cit.* (above, p. 65, n. 1), p. 112.

[5] Goodchild, *art. cit.* (above, p. 68, n. 1), p. 65. On Christianity in Vandal and Byzantine Tripolitania, J. B. Ward Perkins and R. G. Goodchild, 'The Christian Antiquities in Tripolitania', *Archaeologia*, xcv (1953), 57 ff.

[6] Late, perhaps even seventh-century Berber ruins have been located along the Oued Itel some thirty-five miles south of the *limes* at Gemellae, in country which is to-day desert (P. Blanchet, *B.A.C.*, 1899, pp. 137–40). See also J. Baradez, *op. cit.*, pp. 141–2.

result of the nomads' tactics has been graphically described by Procopius and treated as a factor which was to confront Belisarius.[1] The conclusion we might come to is that for the previous century the southern frontier zone garrisoned by native *limitanei* had continued to protect the rest of the country even though there was no longer a Roman military command.

The defeat of Thrasamund had important consequences. It marks the beginning of the long process as a result of which the Louata came to dominate the inland plains of North Africa. It showed, too, the weakness of the traditional infantry and cavalry tactics employed by the Vandals and the Byzantines when confronted by nomads. By the time Belisarius appears on the scene in 534, the Louata under their new king Antalas had been pushing their raids over the whole of the central Tunisian plain as far north as the Hamada mountains.[2]

After Belisarius, the Byzantine governors Solomon and John Troglita just managed to hold the Louata in check. But while they were able to inflict decisive defeats on the Berbers dwelling in the Aurès mountains they were never able to subdue the nomads. The Louata with their flocks and herds, their camels and their barbaric pagan rites form a permanent background to the pages of Procopius and Corippus. Moreover, the site of the battles fought by the Byzantines against them such as at Laribus (Hr. Lorbeus)[3] or near Theveste[4] and Sicca Veneria[5] show that the contested ground had become the great plain of central Tunisia. This was also one of the main olive-producing areas. Whereas Belisarius had fought the Vandals for the possession of Carthage, the military problem confronting his successors was to prevent the Berber nomads from dominating the immense and at that time fertile plain of Byzacena. We may attach a certain amount of significance to Procopius' statement that by 547 Byzacena was becoming depopulated and that some of its inhabitants were taking refuge overseas.[6] It may be at this period too that the great frontier area between Byzacena

[1] Procopius, *De bello Vandalico*, iii. 8. See also E. F. Gautier, *Genséric* (Paris, 1951), pp. 288–94. For the Louata's use of similar tactics against the Byzantines, Corippus, *Iohannidos*, ii. 93; iv. 598; v. 430; vi. 194; viii. 40.

[2] Procopius, *De bello Vandalico*, iii. 9, 3. Cf. Ferrandus, *Vita Sancti Fulgentii* (ed. R. P. Lapeyre), p. 30.

[3] Corippus, *Iohannidos*, iv. 22, 18.

[4] *Ibid.*, iv. 21, 19.

[5] *Ibid.*, iv. 24, 7.

[6] Procopius, *De bello Vandalico*, iv. 23, 27, 28, 52.

and Tripolitania known as the *Regio Arzugitorum* finally came under barbarian control. Its name was becoming forgotten by the time Corippus wrote (*c.* 550), and it was described as a desert.[1]

The death of Antalas seems to have brought a long respite. Archaeological evidence suggests that the natives' villages and small olive farms enjoyed a relative prosperity amid the general decay of the rest of the province. At Thuburbo Maius (Pont du Fahs) the Capitol and the forum were already in ruins when natives built their oil presses and squalid huts among the fallen masonry. The presses which were decorated with curious cabalistic symbols appear to have been their most prized possessions. Byzantine coins, including a hoard of *solidi* ending with Heraclius, were found in the ruins of one of the huts.[2] A further piece of evidence comes from Casae Nigrae (Négrine) on the edge of the Sahara one hundred miles south of Tébessa. There an *ostrakon* dated to 542–3 refers to a 'producer of oil' in the area.[3] On their side, the Arab writers on the conquest of North Africa speak of the first raiders riding through a land teeming with villages, and under the shade of olive trees all the way from Tripoli to Tangier.[4] There was a grain of truth behind this Eastern tale.

It seems clear that so long as the Byzantine administration continued to function, North Africa remained one of the main sources of supply of oil exported to Europe. This trade was both with the barbarian kingdoms and the Byzantine dominions. The importance of African olive oil to the latter in the first half of the seventh century is well attested by Arab tradition. The scene is near Sbeitla following the defeat and death of the Patrician Gregorius in 647 at the hands of the first Arab raiders. The Arabs demanded an enormous ransom, but soon to their amazement, a heap of gold coins began to pile up in front of Abd Allah ibn Saad's tent. He asked an Afariq (Latin-speaking Berber) how his people were able to pay this amount. The man scratched the surface of the ground and produced an olive stone. 'The Roûm,' he replied, 'have no

[1] Corippus, *Iohannidos*, ii. 146–8. Cf. R. G. Goodchild, *The Limes Tripolitanus* (II), *JRS*, xl (1950), 38.

[2] L. Poinssot and R. Lantier, *B.A.C.*, 1925, pp. lxxv–lxxxiv.

[3] E. Albertini, 'Ostrakon byzantine de Négrine', *Cinquantenaire de la Faculté des Lettres à Alger* (Algiers, 1932).

[4] En-Noweri (ed. de Slane, Appendix i to Ibn Khaldoun's *Histoire des Berbères*, p. 341). See also G. Marçais, *La Berbérie musulmane et l'Orient au moyen age* (Paris, 1946), p. 23.

olives themselves, and therefore they come to us to buy the oil, which we sell to them. This is the source of our wealth.'[1] The story is undoubtedly based on fact. There was a considerable quantity of gold in the hands of the natives at this period. An example is the hoard of one hundred and fifty *solidi* dating from Phocas to Heraclius Constantine (602–41) at Thuburbo just quoted.[2] The export of olive oil is the only obvious source of this wealth. Similarly, we know from Gregory of Tours that olive oil was being imported in considerable quantities into Merovingian Gaul via Marseilles throughout the sixth century.[3] Recently fragments of Mediterranean type amphorae unearthed on a Dark Age site at Tintagel, suggest that African oil may have been finding its way even farther afield.[4]

The arrival of the first Arab armies in 647 destroyed that element of security which the native farmers had enjoyed under the Byzantines. The immediate shock of their onset is perhaps indicated by the hoards of gold *solidi* ending with Heraclius which have been found in areas threatened by them, south of Kairouan, at Bou-Arada and near Carthage.[5] From the point of view of the cultivator there was little to choose between the Arab nomads and the Louata. Ibn Khaldoun noticed the similarity in the way of life of each. He says of these Berbers,

> They live in tents, they breed camels, and ride on horseback. They transport their dwellings from one place to another; they spend summer on the Tell (coastal mountains) and winter in the desert. They kidnap the inhabitants of the cultivated areas and they reject the rule of a just and regular government.[6]

It is perhaps small wonder that he records how following the withdrawal of the Byzantines the sedentaries rejected the rule of the Berber nomad queen, the Kahena, when the latter began wantonly to destroy the olive plantations in Numidia.[7] In the half century

[1] Ibn Abd al Hakam, *op. cit.*, pp. 44–5.

[2] Poinssot and Lantier, *art. cit.*, p. lxxxiii.

[3] Gregory of Tours, *Historia Francorum*, iv. 43. Also v. 5.

[4] Information from C. A. Raleigh Radford, F.S.A., who conducted the excavations.

[5] References to these hoards are given by Poinssot and Lantier, *art. cit.*, p. lxxxiii, n. 1.

[6] Ibn Khaldoun, *Histoire des Berbères*, iii. 179.

[7] *Ibid.*, i. 214. Cf. En-Noweri (ed. de Slane, p. 341).

of confusion that follows the death of Gregorius, it is clear that these nomads gradually predominated over the Byzantines and the native inhabitants.

But equally the Arabs who conquered the Kahena were a nomadic horde. Their campaigns against North Africa were conducted over immense distances from bases over five hundred miles away in Cyrenaica. Like the Kahena herself they fought for control of the plains, in particular for the broad channels of communication which traverse the continent between Constantine and the Aurès mountains, and south of these mountains along the edge of the Sahara desert. The site of the battles fought by the Arabs in this period, at Sbeitla, and Djelloula in Byzacena, Tobna south-west of the Aurès, and at Bir el Kahena on the edge of the plains of Tébessa, illustrate these aims. The old centres of settlement in North Africa, such as the Tunisian river valleys and even Carthage itself, hardly figure in the narratives of the Arab chroniclers. It is noticeable that Sbeitla in Byzacena and not Carthage is Gregorius' capital. The selection of Kairouan, isolated on a great, open plain, as the Arab capital indicated a future for North Africa which turned its back on the Mediterranean, to become instead the desert highway that linked the Arab centres of Cairo and Cordova.[1]

The Arab victories had as their immediate result the permanent control of the cultivated steppes by the Berber and Arab nomads. The advance of the Louata has already been described, but farther west other nomads such as the Matghara swept up from the Sahara to establish themselves among the villages and olive plantations which had grown up on the plain of Hodna and near Tlemçen.[2] The process by which the cultivator reverted to transhumance was slow and unspectacular. In southern Numidia one finds evidence for the gradual decay of villages rather than their violent destruction. The churches become smaller and more crudely built, and the last signs of dwellings are untidy fragments of re-used stone robbed from ruined buildings.[3] On the other hand some hill-forts, notably Tiddis fifteen miles north-west of Constantine, show

[1] See E. F. Gautier's excellent analysis of the campaigns fought between the Arab and Berber armies in the last half of the seventh century, *Le Passé de l'Afrique du Nord*, pp. 247–54.

[2] Ibn Khaldoun, *Histoire des Berbères*, i. 237.

[3] A. Berthier, *Les Vestiges du christianisme antique dans la Numidie centrale* (Algiers, 1942), p. 172 (decay of churches in Numidia).

traces of continued occupation until the eleventh century,[1] and similar evidence for the prolonged occupation of native villages in the Moslem era comes from Tripolitania.[2]

Near the end of the ninth century an Abbasid official, Ibn Yakoub, drew up a report on North Africa for his masters, and this shows that the country was still in transition between its Latin and Christian past and Islam.[3] Ancient Numidia was by this time inhabited by numerous nomadic tribes among which the Louata were prominent,[4] but here and there were prosperous villages and olive farms owned and peopled by Latin-speaking Christians; and there were even a few Roûmi who claimed to be the descendants of Byzantines. On the whole these were survivals, without much chance of renewal from outside. The foreign communities which he mentions were those of Persians and Arabs, and not Italians and Franks. Relations even with Sicily appear to have been subject to treaty rights rather than of free exchange.[5]

At the same time the direction and the character of North African trade were changing. We hear no more about the arrival of cargoes of olive oil in north-west Europe after the Corbie charters of 673 and 716,[6] though some undoubtedly continued to reach Adriatic countries through Venice. On the other hand, ports which had handled this trade, such as Sousse, were becoming famous for the export not of olive oil but of turbans and fabrics.[7] African oil was being sent eastwards, probably by caravan, along with almonds, saffron, nuts, leather and water bottles with which Africa was now providing the Moslem world.[8] At the very time when Carolingian Europe was tending to consolidate round the great inland waterways rather than the Mediterranean, the Berbers were themselves looking away from Europe. Some of the ports on the north coast were becoming disused, and their road links

[1] A. Berthier, *Tiddis, antique Castellum Tidditanorum* (Algiers, 1952), pp. 50–2.

[2] Goodchild, *The Limes Tripolitanus* (II), p. 37.

[3] Analysed by G. Marçais in 'La Berbérie au IX^e siècle d'après el Ya'koubi', *Revue Africaine*, lxxxv (1941), 42 ff.

[4] Ibn Khaldoun, *op. cit.*, i. 233–4.

[5] Lopez in *Cambridge Econ. History*, ii. 276.

[6] Cited from Pirenne, *Mahomet and Charlemagne*, pp. 89–90.

[7] El-Idrisi, *Description d'Afrique et de l'Espagne*, p. 149.

[8] Al-Muqaddasi (writing *c.* 980), *Description de l'Occident musulman au IX–X siècle* (ed. and tr. G. Pellat. Algiers, 1950).

with the interior blocked, while M'Sila on the steppes north-west of the Shott el Hodna became a flourishing centre for trade across the Sahara, and its merchants famed for their wealth.[1] In the desert itself, Sedrata the capital of the Ibadite Berber kingdom has now been revealed as a prosperous city, preserving something of the science of irrigation and artistic achievement which had characterized the African peasant in late Roman and Byzantine times.[2]

These developments may be associated with another movement which expresses clearly the change in the relations between North Africa and Europe which was taking place. All through the early middle ages Christianity was losing ground in North Africa, and Islam was in the process of becoming the predominant religion of the country.[3] So long as the Byzantines remained, the rival parties of Catholics, Donatists and Manichees struggled for pre-eminence. In 645 the Patrician Gregorius built the last dated church in North Africa on a mound outside Timgad in Numidia.[4] Next year an African council at Hadrumetum (Sousse) declared itself against the imperial *Ecthesis* favouring the Monothelete heresy. A century later, the African cultivators appear still to have been Christian, but the nomads were not. A source used by Ibn Abd al Hakam states that among the Berbers, 'most of the Beranes (sedentaries) were Christian, and a few of the Botr (nomads)'.[5] About half the Botr seem to have been Louata and the rest were composed of other nomadic tribes. This difference between the religions of the nomad and the cultivator may be traced into the Byzantine period. The native farmers including the *limitanei* were Christian, while the nomadic tribes mentioned by Procopius and Corippus were pagan. Cabao, Procopius records, was 'ignorant of the Christian god'.[6] The Louata of a generation or so later performed human sacrifices.[7] When the Arabs defeated the Berber nomads they imposed on them the *kharaj* payable by non-Moslems, under pain of

[1] El-Idrisi, *op. cit.*, p. 141. The merchants seem to have penetrated lands occupied by negroes and obtained gold from them.

[2] M. van Berchem, 'Uncovering a lost city of the Sahara', *Illustrated London News*, 31 Jan. 1953.

[3] W. Seston, 'Sur les derniers temps du Christianisme en Afrique', *Mélanges*, liii (1936), 101–24; Marçais, *La Berbérie musulmane*, pp. 32 ff.

[4] P. Monceaux, *Timgad chrétien* (Paris, 1911), p. 22.

[5] Ibn Abd al Hakam, *op. cit.*, p. 77; also Ibn Khaldoun, *Histoire des Berbères*, i. 215.

[6] Procopius, *De bello Vandalico*, iii. 8. 18.

[7] Corippus, *Iohannidos*, vii. 307–15; cf. ii. 109.

seizing their womenfolk if they did not pay.[1] Whether to avoid this or for other reasons the Berber nomads in their overwhelming majority accepted Islam, and by 710 were fighting under Arab leaders in Spain. For many tribes there was no intervening Christian phase. Ibn Khaldoun describes the important tribe of Sanhadja nomads in the neighbourhood of Sousse as having never been christianized.[2] Yet this particular area from the end of the third century until the middle of the seventh century had been completely Christian. Thus, the domination of the nomads both Berber and Arab entailed also the domination of Islam as against Christianity in North Africa. While the Arab historians never regarded the Afariq or latinized Berbers as enemies, and there is no formal proscription of Christianity, the Church became a minority religion. A slow but continuous decline set in, paralleled by the decline of the African villages. The Christian cemeteries of Ain Zara and En-Gila in Tripolitania show that it was not until the eleventh century that the religion of Donatus of Carthage and St. Augustine became extinct. Here the Hillalian invasions mark the end of the story.[3]

In these pages we have not been describing events peculiar to North Africa. Recent discoveries point to a rather similar development taking place in northern Syria following the Arab occupation. There too an amazingly prosperous rural society grew up between the mid-second and mid-seventh centuries in an area which until lately was almost deserted. Like their African contemporaries, these Syrian villagers were Christian and owed their prosperity to the careful cultivation of olive groves. As in Africa also, there was a tendency in Byzantine times for the regime of the single wealthy proprietor owning a large and well-built farm and oil press to give way to that of a farming community. At Qirk Bizze villas built earlier had been subdivided into tenements each equipped with its olive press.[4] I have seen the same thing in the

[1] Ibn Abd al Hakam, *op. cit.*, p. 31. See also Marçais, *La Berbérie musulmane*, pp. 35 ff. Ibn Khaldoun, *Histoire des Berbères*, i. 214, states that the Kahena's followers (i.e. nomadic Berbers) embraced Islam after the battle of Bir el Kahena in 698.

[2] Ibn Khaldoun, *op. cit.*, i. 212.

[3] Seston, *op. cit.*, pp. 121 ff. As late as 1140 the Aghlabids were using Christians or converts to Islam in the army and administration.

[4] G. Tchalenko, 'La Syrie du Nord: Etude économique', *Actes du VI^e Congrès international des études byzantines* (Paris, 1950), ii. 389–97.

ruins of the Roman houses at Sbeitla and in the 'bishop's palace' belonging to the church of Cresconius at Djemila. We may expect evidence for similar developments on Tripolitanian sites.[1] The eventual abandonment of the Syrian sites was not due to their destruction by the Arabs, but to the more general economic changes brought about by the presence of nomads and the insecurity caused by the presence of the frontier between the Byzantine and Arab realms. The natives gradually abandoned their villages and reverted to subsistence farming and transhumance. As in Africa, failure to maintain hydraulic installations automatically involved the return of steppe conditions in which the nomad was supreme.

Thus in two widely separated parts of the Mediterranean the Moslem invasions brought about similar results. It is fair to ask why the administrations of Kairouan and Damascus allowed the situation of the cultivators to deteriorate. Probably part of the answer must lie in the psychology of the new rulers. The Arab armies were, as Ibn Khaldoun points out, plundering hordes. Their main object was booty, and they despised those who were not riders like themselves.[2] On the other hand, the barrages and irrigation channels on which the native cultivator depended for his crops needed constant maintenance, and this was only worth while in relatively stable conditions. The Romans, Vandals and Byzantines had provided this stability, even though their officials taxed the natives harshly. The Arab administration seems to have left them to the mercy of nomadic tribes,[3] and cultivator and nomad cannot occupy the same area continuously together. This is particularly the case where the cultivator's main crop is olives, whose trees take between ten and twelve years to mature. Apart from this, the break-up of rural society in North Africa during the eighth and ninth centuries was hastened by the ferocious civil wars caused by the Kharedjite schism in Numidia.[4]

[1] Sites such as Gasr ed-Dauun in Tripolitania where smaller buildings have been built in the ruins of large olive farms have been surveyed but not yet excavated.

[2] Ibn Khaldoun, *Prolegomènes* (ed. de Slane, i. 309). See also J. Schumpeter, 'Les Conquêtes musulmans et l'Impérialisme arabe', *Revue Africaine*, xciv (1950), 283–97.

[3] The Hafsids also used the Louata as collectors of tribute from other Berber tribes (Ibn Khaldoun, *Histoire des Berbères*, i. 233).

[4] See Gautier, *Le Passé de l'Afrique du Nord*, pp. 281 ff.

The relations, therefore, between North Africa and Europe during the early middle ages may be characterized as those of gradual but lasting estrangement. The clue to this situation is to be found less in the domination of the Mediterranean by the Arab fleet or in the deliberate policy of the Arab conquerors than in the progressive transformation of the way of life of most of those who had once been the primary producers. In addition, such articles as now left North Africa tended to travel by camel caravan along the oasis routes rather than by sea. These changes coincided with gradual changes in taste and outlook which were taking place in Carolingian Europe and which lessened the demand for the oil which North Africa produced.[1] As a result, the geographical factors which have always tended to shut the country off from contact with Europe, such as the high coastal mountains, the lack of navigable rivers, and limited communications between the ports and the interior, reasserted themselves. The Berbers turned their ambitions southwards to begin the great movement across the Sahara which was to lead eventually to the establishment of Moslem kingdoms in the Niger valley. In Europe the Latin Church abandoned the use of oil lamps for the humbler but equally efficient candle while the court of Baghdad enjoyed the pleasure of the trickle of that precious substance that continued to leave the olive farms of Tunisia.

[1] Lopez in *Camb. Econ. Hist.* ii. 261.

THE *OCULUS SACERDOTIS* AND SOME OTHER WORKS OF WILLIAM OF PAGULA

The Alexander Prize Essay

By Rev. L. E. Boyle, O.P., S.T.L.

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ONE of the results of the Fourth Lateran Council in 1215 was a heightening of interest in the cure of souls, and the years that followed the Council saw a generous effort on the part of prelates to provide, in accordance with the Lateran directives, a better-educated clergy who could bring the laity to a reasonable understanding of the essentials of Christian belief and practice. In England, during the reign of Henry III, nearly every diocese contributed to the movement for reform, chiefly by statutes modelled upon or deriving from decrees of Innocent III's great council. The Council of Oxford in 1222, the Council and Constitutions of the Legate Otto at London in 1237 and of the Legate Ottobono at London in 1268, catered in varying degrees for the Church in England as a whole.[1]

By 1260 the great wave of diocesan pastoral legislation seems almost to have spent itself, and some twenty lean years of pastoral effort were to follow until the Council of Lambeth in 1281. There, the Franciscan John Pecham promulgated his *Ignorantia Sacerdotum*, an outline of Christian doctrine and morals which the priests of the province of Canterbury were ordered to expound in the vernacular four times each year.[2] This may be said to represent the high point of pastoral legislation in medieval England, not because there is anything great or original about the Lambeth outline but because it was the first programme of pastoral instruction

[1] Cf. M. Gibbs and J. Lang, *Bishops and Reform, 1215–1272* (Oxford, 1934), especially pp. 94–179; and, for the synodal statutes of the period, C. R. Cheney, *English Synodalia of the Thirteenth Century* (Oxford, 1941).

[2] D. Wilkins, *Concilia Magnae Britanniae et Hiberniae* (London, 1737), ii. 54–6. The outline occupies a chapter of the Lambeth Constitutions to which Wilkins gives the title *De Informatione Simplicium*. We shall refer to the outline by its *incipit*: *Ignorantia Sacerdotum*.

in pre-reformation times to emanate from Canterbury, the ecclesiastical centre of England. As such it was to exercise influence in the two centuries preceding the Reformation.[1]

The character of the Lambeth outline has not always been clearly rendered by historians. Some, beguiled perhaps by the famous opening sentence about the ignorance of priests, seem to represent Pecham's enactment as a manual of practical theology designed to combat that ignorance.[2] This is precisely what it is not. For the *Ignorantia Sacerdotum* is simply a Syllabus which lists or defines what responsible parish priests should preach to their parishioners: it presumes rather than imparts knowledge, and, far from providing, demands a companion volume of practical theology comparable to the *Templum Domini* with which Robert Grosseteste supplemented his pastoral legislation.[3] Unaided, it could have done little to relieve clerical ignorance.

Forty years were to elapse before any elaboration of Pecham's Syllabus would emerge. In the meantime those priests who took the Lambeth programme seriously could implement their knowledge of the points they were required to preach from one or other of the handbooks of popular theology which the thirteenth century had produced. The *Summula* of Bishop Quivil of Exeter in 1287, for instance, although it is primarily a manual for the examination and instruction of penitents in the confessional, incidentally covers some of the ground of the programme.[4]

But with the flowering of pastoral theology in the fourteenth

[1] Thus, as late as 1520, an Oxford bookseller, John Dorne, may be seen doing a steady trade in an English adaptation of the outline called the *Exhonoratorium Curatorum*, thirty copies of which were sold during about ten months of that year. Cf. F. Madan, *The Daily Ledger of John Dorne, 1520* (Oxford Historical Society, *Collectanea*, i. 1885), where the entries for the period are printed pp. 79–138.

[2] E.g. M. Deanesly, *The Lollard Bible* (Cambridge, 1920), p. 196; D. Douie, *John Pecham* (Oxford, 1952), p. 138. F. Barlow, reviewing Miss Douie's book (*Journal of Ecclesiastical History*, iv (1953), 229–30), calls it 'a handbook for confessors' akin to the *Summula* of Quivil.

[3] The *Templum Domini* is extant in some 70 manuscripts, 65 of which have been listed by S. H. Thomson, *The Writings of Robert Grosseteste* (Cambridge, 1940), pp. 138–40.

[4] I.e. the ten commandments and the seven deadly sins. The text is printed in Wilkins, *Concilia*, ii. 162–8. In the prologue Quivil states his purpose: '. . . insufficientia presbyterorum saecularium confessiones audientium compatiens . . . praesentem summulam eisdem assigno ut eam sciant ad utilitatem

century, manuals began to appear in Latin and in the vernacular which featured expositions of the Syllabus. The first of these manuals came appropriately from the pen of a parish priest. This was the *Oculus Sacerdotis*, commonly attributed to a Berkshire parish priest, William of Pagula. Written about 1320, part of it is an explicit elaboration of the *Ignorantia Sacerdotum* of Pecham, and all of it must have helped to make the fulfilment of the requirements of that Syllabus easier for the parochial clergy of the next two centuries. Our concern in this essay is with this manual, with its probable author and with the largely unsuspected richness of its setting.

As the name suggests, the *Oculus Sacerdotis* deals with matters which should come within the vision of a priest; and, in the form in which it is normally found, consists of three parts, the first, from which the whole often took its title,[1] being called the *Pars Oculi*, the second the *Dextera Pars*, the third the *Sinistra Pars*. At first, these titles may seem somewhat unusual until one remembers the great vogue of the *Oculus Moralis* of Petrus de Lacepiera which, about the time when the *Oculus Sacerdotis* came to be written, may have been circulating under the name of Grosseteste or Pecham, eith of which commanded respect.[2] This *Oculus Moralis* of Lace iera analysed the moral significance of the eyes. The right eye, for example, was the eye of action and morals; the left eye that of knowledge and speculation.[3] The plan, therefore,

suam et confitentium'. Although Miss Douie, *John Pecham*, pp. 138–9, says that Quivil used the Pecham programme 'as the source of the little *Summa*', the programme and the *Summula* differ in character and purpose.

[1] Thus the first catalogue of Dover Priory (M. R. James, *Ancient Libraries of Canterbury and Dover* (Cambridge, 1903), p. 418, nos. 95, 96) twice describes as *Pars Oculi* what the second catalogue (*ibid.*, p. 445) reveals to be all three parts of the *Oculus Sacerdotis*.

[2] The *Oculus Moralis* is ascribed to Grosseteste in many fourteenth-century MSS. listed in Thomson, *Writings of Robert Grosseteste*, pp. 256–7, and to Pecham in one MS. of the next century. The colophon of the Augsburg edition of 1477 reads: 'Tractatus (Johannis Pitsham Archiepiscopi Cantuariensis) . . .' For Petrus de Lacepiera (Pierre de Limoges), cf. H. Spettmann, 'Das Schriften "De Oculo Morali" und sein Verfasser', *Arch. Franc. Hist.*, xvi (1923), 309–22.

[3] *De Oculo Morali*, Augsburg (A. Sorg), 1477, fo. 11: ' . . . in nobis duplex oculus: intellectus videlicet et affectus. . . . Oculum intellectus illuminat veritas, oculum affectus caritas. . . . Sed in multis sinister oculus multum illuminatus est cum dexter sit obscuratus . . . O quot sunt hodie . . . qui multum intendunt circa quaestiones sed modicum circa mores'.

of at least two parts of the *Oculus Sacerdotis* may well have been suggested by the contents of this little treatise. The moral or teaching part is significantly called the *Dextera Pars Oculi*, and the dogmatic or semi-speculative part the *Sinistra Pars Oculi*; while the part on confessional practice, the *Pars Oculi*, although it has no obvious source in the *Oculus Moralis*, may be taken to represent a function of the eye, the capacity to scrutinize. At all events, later supplements to the *Oculus Sacerdotis* were to continue the image, a *Cilium Oculi* about 1330–40 adding an eyelash to make up, no doubt, for a certain lack of finish[1]; the *Pupilla Oculi*, later still, being an explicit attempt to refocus the *Oculus* after some sixty years of use.

In purpose, therefore, the *Oculus Sacerdotis* was meant to embrace all aspects of the *cura animarum* to which a parish priest was committed; and in secular literature it has an interesting parallel, the *Oculus Pastoralis*, a manual written to instruct a future ruler of a state in the *cura rerum* which Muratori prints under the year 1222.[2] However, in electing to approach the pastoral care from the three angles of confessional practice, sacramental theology and preaching matter, the author of the *Oculus Sacerdotis* involves himself in much repetition which has led some authors to question the competence of the work. Thus Professor Davis, the only writer who has studied the *Oculus* to any depth, concluded in 1913 that the treatise was the work of an author who was diffuse, repetitive and incapable of arranging his material in an orderly fashion; that it was, in fine, the product of a less scientific school of jurisprudence than the *Pupilla Oculi* of a Chancellor of the University of Cambridge, John de Burgh, which in 1384 improved upon it.[3]

It would seem, however, that in charging the author of the *Oculus Sacerdotis* with a lack of method Davis was only accepting

[1] It is called 'quoddam additamentum Oculi Sacerdotis' in MS. Balliol College 86, fo. 231r, and on occasion is found as a fourth part of the *Oculus*, as in MS. 249, Guildhall, London.

[2] *Oculus Pastoralis* sive *Libellus erudiens futurum rectorem populorum anonymo auctore conscriptus circiter annum 1222*, in L. A. Muratori, *Antiquitates Italicae Medii Aevi*, ix (1776), 792–858.

[3] H. W. C. Davis, 'The Canon Law in England', *Zeitschrift der Savigny-Stiftung f. Rechtsgeschichte*, xxxiv (1914), 349–50, reprinted in J. R. Weaver and A. L. Poole, *H. W. C. Davis, A memoir* (London, 1933), pp. 123–43.

at their face value some statements of de Burgh himself in his preface to the *Pupilla*. The *Oculus*, de Burgh allowed, may be a very popular manual of pastoral theology, but the treatment it gives to its subject seems to involve a certain disorder: this he would remedy by pruning and redistributing the matter.[1] On the other hand, a later writer, whose pastoral manual has recently come to light, seems on the contrary to imply that de Burgh in his *Pupilla* missed some of the point of the *Oculus*. This manual, a further *Pupilla Oculi*, restores much of the *Oculus* that de Burgh had deemed redundant and, superficially at least, shows a greater understanding of the plan of the original *Oculus*.[2] For although in the *Oculus Sacerdotis* there is considerable repetition of matter, it is in each part approached from a different point of view. Thus, in the *Sinistra Pars*, when the priest is making himself familiar with sacramental theology, there is one approach; there is a second in the *Dextera Pars* when he is presenting the fruits of his study to his parishioners; and there is still a third in the *Pars Oculi*, when he is applying the matter in the confessional. Each part of the *Oculus Sacerdotis* was in fact designed to be complete for its purpose, and as such is often to be found on its own in manuscripts; indeed, as we shall see later, there is evidence that the first of the three parts of the *Oculus Sacerdotis* as it commonly circulated was in reality the last to be written. But even in the normal tripartite *Oculus* which Davis and de Burgh had before them, the seemingly endless repetition of which they complained does in fact eliminate cross-reference. The *Oculus Sacerdotis*, on that score at least, would thus as a whole be highly acceptable to readers of whose capacities the author may have had an unflattering but scarcely an inaccurate opinion. An analysis of the three parts of the *Oculus* indicates that he knew his potential public only too well.

The first part of the *Oculus Sacerdotis*, the *Pars Oculi*, was written to enable confessors to examine penitents thoroughly, to suggest to them appropriate remedies for their weaknesses and

[1] 'Modus tamen et ordo tractandi ob quorundam in eo contentorum inordinatam replicationem non videtur doctrinaliter ordinatus': *Pupilla Oculi*, London (impensis Bretton), 1510, fo. iir.

[2] MS. Corpus Christi College, Oxford, 145, fos. 121r ff.: 'Incipit libellus qui dicitur Pupilla Oculi summarie compilatus. . . .' The text itself begins with the prologue to the *Pars Oculi*: 'Cum ecclesiae quibus praeficiuntur personae minus idoneae. . . .'

to assign salutary penances. It is, in fact, a modest *Summa de Poenitentia*.

The twelve opening chapters are devoted to a method of examining penitents from many walks of life on aspects of the articles of faith, the ten commandments, the seven deadly sins and the venial sins. Then follows a model setting of a confession in which the penitent accuses himself of the various sins and faults which have been the burden of the priest's interrogation. John Myrc, in part of his *Instruction for Parish Priests*, has rendered most of the contents of these chapters into English verse, though with an appreciable rearrangement.[1] The *Pars Oculi*, however, proceeds from this point with some twelve chapters on the penances which a priest, prudently withal, should assign to certain types of sin, homicide, harlotry and the like. By and large, this second block of chapters summarizes or embodies some ten chapters of the *Summa de Casibus* of Thomas de Chabham, a priest of the Salisbury Diocese a century earlier.[2]

Thus far the contents of the *Pars Oculi* closely resemble those of any standard penitential manual of the period. Some personal experiences of the author now inspire him to make a contribution of his own. While engaged in the office of a penitentiary, he tells us in his prologue to the *Pars*, he was appalled to find how many parish priests seemed to have no inkling where the jurisdiction that they exercised over consciences in the confessional began or ended. Some were absolving from sins and censures over which they had no control, while others were denying absolution and referring penitents to the diocesan penitentiaries when in fact the remedy was theirs to apply. This state of affairs revealed an ignorance of the penitential canons of the Church in general and of the

[1] J. Myrc, *Instructions for Parish Priests*, ed. E. Peacock (Early English Texts Society, Old Series, xxxi, 1868), ll. 976–1096, 1107–1286, etc.

[2] *Pars Oculi*, MS. New College 292, fos. 8v–11r: Thomas de Chabham, *Summa* (MS. Oriel College 17), Pars VIIa, cc. 114, 127, 128, 130, 131, 140, 170, 175, 185, 186. For Master Thomas de Chabham, subdean of Salisbury between about 1208 and 1228, cf. J. C. Russell, *Dictionary of writers of thirteenth-century England* (Bulletin of Institute of Historical Research, special supplement no. 3, London, 1936), pp. 158–9; and A. Teetaert, *La confession aux laiques dans l'église latine* (Paris, 1926), pp. 347–51. It is not generally known, however, that he was also perpetual vicar of Sturminster Marshall, Dorset, between 1206 and about 1220 (Muniments of the Dean and Chapter, Salisbury, Press 4, Box C, doc. 4, 5).

Church in England which could not reasonably be pleaded by those who by profession were committed to the execution of this discipline.[1]

To offset this dismal situation, and to render happier the lot of parishioners, many of whom had often to go for a year on end without absolution, the author draws up for the guidance of the parochial clergy the great catalogue of censures, reserved and unreserved, which occupies the central chapters of the *Pars Oculi*.[2] Based on general and provincial legislation, this catalogue includes an account of the occasions on which a priest himself may absolve from censures, and of those on which the absolution is reserved to the pope, to bishops or to penitentiaries whom they have delegated; and, among other matters, 140 ways in which greater excommunication may be incurred, fifty of which are the articles of *Magna Carta* and the *Carta de Foresta* to which an excommunication *ipso facto* had been attached in the previous century.

As a whole, the catalogue depends largely on the manuals of continental canonists, but the achievement of the author is none the less remarkable. For the first time, it would seem, a manual was at the disposal of the parochial clergy of England in which the censures imposed by the Church in England were analysed and placed within the framework of the established classification

[1] 'Et licet animae hominum pretiosiores omnibus aliis rebus et corporibus . . . ipsae tamen animae per praelatos et sacerdotes minus idoneos multipliciter sunt deceptae, prout experientia didici in officio poenitentiarii constitutus. Nam multoties scivi et inveni quamplures sacerdotes parochiales errasse in modo confessionis audiendae et etiam in absolutione inpendenda ac etiam in poenitentiis iniungendis, et absolventes parochianos suos de facto quos absolvere non possunt de iure . . . et in multis casibus mittentes eos poenitentiariis episcoporum in quibus ipsi sacerdotes absolvere possunt bene. Et sic quandoque propter negligentiam parochianorum et ignorantiam presbiterorum remanebant quidam parochiani per annum et ultra non absoluti de peccatis de quibus idem sacerdos parochialis absolvere possit . . . et hoc propter iuris ignorantiam quae non poterit eos excusare cum nulli sacerdotum liceat poenitentiales canones ignorare nec quicquam facere quod patrum regulis possit obviare: XXXVIII D, 1, 2 et 3, et cap: *Nulli Sacerdotum*. . . . Valde tamen necessarium est sacerdotibus parochialibus scire poenitentias in canonibus diffinitas, ut sic scire possint pro maioribus peccatis maiorem poenitentiam inponere, . . . et casus in quibus absolvere non possunt. . . . Et quia in praedicitis quamplures scio errare, (cupio) . . . quantum possum Dei gratia eos . . . ab huiusmodi erroribus revocare. . . .' (MS. New College 292, fo. 2r–2v.)

[2] MS. New College 292, fos. 13r–27v.

of censures binding the Church universally.[1] At all events, the catalogue was to become classic, being repeated in one form or other by manuals of the next two centuries. Thus, as late as 1523, we find among the articles of the Great Sentence in the printed edition of the Sarum *Manuale*: 'Also all those that breke any poynt of the Kynges Grete Chartre . . . or of the Chartre of the forest. . . . In the Grete Chartre be xxxv poyntes and the Chartre of the forest comprehendeth xv poyntes (ut in tractatu qui vocatur Pars Oculi in prima parte plenius continetur).'[2] The penitentiary-class which the author of the *Oculus* may be taken to represent must have rejoiced in the drop in claims on their services which doubtless followed on the publication of the *Pars Oculi*. Yet there are indications that poor and ignorant parish priests were not the only ones at fault in this matter of moral jurisdiction. The prologue to the *Pars* tactfully makes the parochial clergy the main offenders, but the fact remains that the catalogue of censures also covers 'Cases which a bishop's penitentiary may not absolve', and 'Cases which may not be absolved by a bishop'.

The second part of the *Oculus Sacerdotis*, the *Dextera Pars*, is concerned with the parish priest precisely as pastor, and with the manner in which he should educate those committed to his care in the essentials of dogma and morals, and familiarize them with the legislation which council or synod had devised to protect them from misbelief or from misdemeanour.[3]

First, the author deals with matters which should be preached or expounded from time to time, such as the vernacular form of baptism; the use of the baptismal form in cases of danger of death;

[1] There were, of course, many excommunication-lists current in the thirteenth century in England, but few of the range of the *Pars Oculi* catalogue. In passing, we may mention Grosseteste's use of the excommunications pronounced at the Council of Oxford in 1222 in his constitutions (*Roberti Grosseteste Epistolae*, ed. H. R. Luard (Rolls Series, 1861), pp. 162–4); and his 'Casus quibus excommunicatur ipso iure', etc., in the *Templum Domini* (MS. Rawl. A 384, fo. 101).

[2] Sarum *Manuale*, 1523, fo. cxxv, quoted by C. Wordsworth, *Ceremonies and Processions of the Cathedral Church of Salisbury* (Cambridge, 1901), pp. 252–3.

[3] 'Ne quis igitur praelatus seu sacerdos parochialis de hiis per aliqualem ignorantiam se excuset, omnia praecipua quae per canones (et) constitutiones provinciales praecipiuntur parochianis exponi et inter parochianos in ecclesia praedicari in hac modica summa breviter et faciliter continentur' (MS. New College 292, fo. 35r).

the rôles and responsibilities of sponsors; the variety of forms in which homicide can occur: mothers, for instance, should make sure that there is no danger of their children being overlaid and smothered in bed; the meaning of confirmation, matrimonial consent, banns; the importance of annual confession in obedience to the decree of the Fourth Lateran Council; the significance of the sacrifice of the Mass; the obligation to pay tithes, and the manner of collecting these in the province of Canterbury; the iniquities and forms of usury; reverence for the Holy Name; the impropriety of loud behaviour or secular gatherings in churches or in cemeteries. Most of these points are taken from the *Decretals* and provincial legislation, but some of them derive directly from the Salisbury constitutions of Richard Poore and Robert of Bingham in the first half of the thirteenth century.[1]

After this outline of occasional preaching matter which Myrc, in his *Instructions*, has adapted into English,[2] there follows a list of thirty-four excommunications of more frequent occurrence to which people are liable *ipso facto*, and which therefore should be brought to their notice on occasions throughout each year. Nineteen of these censures come from the universal discipline of the Church, and the remaining fifteen from excommunications peculiar to the Church in England.[3] Like the longer catalogue of censures in the *Pars Oculi*, this excommunication-list was to have a wide vogue, and has found its way into print in Wilkins' *Concilia* as an appendix to the constitutions of Archbishop Greenfield of York in 1311.[4] Indeed the whole of the two sections of the *Dextera*

[1] Poore's constitutions (ed. W. D. Macray, *Charters and Documents of Salisbury* (Rolls Series, 1891), pp. 128–63) are cited once, and those of Bingham (B.M. Harl. MS. 52, fos. 119v–126r) at least four times. Indeed, the sequence of this section of the *Dextera Pars* seems to be closely related to that of Bingham's 'quae sunt principalia sacramenta et quot propter simpliciores'.

[2] Lines 69–86, 119–263, 304–403.

[3] Two excommunications from the *Decretum*, three from the *Decretals*, eight from the *Sext*, six from the *Clementines*; two from the Lambeth Council of Boniface of Savoy in 1261, one from the constitutions of the Legate Ottobono in 1268, one from the Reading Council of Pecham in 1279 and eleven from his Lambeth Council of 1281.

[4] Wilkins, *Concilia*, ii. 413–15, but with two notable alterations: the two references in the *Dextera Pars* to the *Speculum Praelatorum* become references to the *Pupilla Oculi* (written 1384).

Pars thus far described was to enjoy an existence separate from the *Oculus Sacerdotis* in pastoral miscellanies of the late fourteenth and early fifteenth centuries.[1]

The remaining and greater part of the *Dextera Pars* is taken up with the Pecham Syllabus, the *Ignorantia Sacerdotum*, by which priests were obliged to instruct the laity in the fourteen articles of the Creed, the seven sacraments, the ten commandments, the seven deadly sins, the seven works of mercy and the seven virtues. This programme of moral instruction is now elaborated from an extensive acquaintance with Fathers and theologians, with Provincial legislation and the latest glosses on the *Decretals*, the *Sext* and the *Clementines*. The exposition, however, has little in common with Lyndwood's glosses on the articles of the Creed from the *Ignorantia Sacerdotum* in the first chapter of his *Provinciale*.[2] Its simple purpose is to suggest matters of theological or legal import which a parish priest would find useful when faced with the quarterly problem of expanding Pecham's Syllabus for the instruction of his parishioners. Only once is there anything approaching a ready-made sermon. This is a fine and perhaps original sermon on the Last Judgement which the author includes in his exposition of the seventh article of the Creed, the Resurrection from the Dead, as a model illustration of the way in which a particular point of the Pecham programme could profitably be developed. It will appear again in the fourteenth century in one or more manuals, notably in the *Judica me* treatise of Richard Rolle which incorporates many passages from the *Pars Oculi* and from this *Dextera Pars*.[3]

[1] Of the instances of this which have been noted to date, the more interesting are five to which C. R. Cheney's *English Synodalia* (p. 147; and pp. 112, 115) has drawn our attention. In each of these instances the extract from the *Dextera Pars*, which Professor Cheney describes as 'a short series of instructions to parish priests' and of uncertain origin, is found accompanying, or as an appendix to, the *Pupilla Oculi* of de Burgh. For the extract represents one of the sections of the *Oculus* which de Burgh, in revising it, had omitted or redistributed. In fact, the extract may really be an appendix to the *Pupilla*: some of the Salisbury references have been dropped, several points are abbreviated and the reader referred to the *Pupilla*, and, as in the work referred to in the preceding note, references to the *Speculum Praelatorum* are replaced by references to the *Pupilla*.

[2] W. Lyndwood, *Provinciale* (Oxford, 1679), pp. 1–8. Myrc, *Instructions*, ll. 454–525, represents the *Dextera Pars* on the articles of faith.

[3] Cf. H. E. Allen, *The Writings ascribed to Richard Rolle* (New York–

A part of the Pecham programme comes up for consideration once again in the *Sinistra Pars* of the *Oculus Sacerdotis* which is entirely devoted to a study of the seven sacraments. This third part of the *Oculus* is prefaced by a long discussion of clerical ignorance which begins with a phrase, *Ignorantia sacerdotum populum decipit et multoties ducit in errorem*, which might be taken for a memory of the famous opening sentence of Pecham's *Ignorantia Sacerdotum*. Some caution, however, must be exercised when assessing the historical significance of this prologue, of the prologues to the *Pars Oculi* and *Dextera Pars* which likewise accuse clerics of ignorance, and of the Pecham prologue. Pecham, for instance, is probably adapting a passage from the Fourth Council of Toledo in 633 with which the medieval cleric would be familiar from the 38th Distinction of Gratian's *Decretum* of which it is the opening chapter.[1] Similarly the whole prologue to the *Sinistra Pars* is mainly a mosaic of quotations from this same Distinction.

It is possible, then, that an apparent witness of this kind to contemporary clerical backwardness may not be uncoloured by a certain convention. Certainly this seems true of Pecham's prologue, the full import of which cannot be evaluated independently of the real character of its correlative, the Syllabus. For if Pecham's remedy for a widespread ignorance of a vital part of Christian teaching, the sacraments, is merely to name the seven of them and leave it at that, then what has been called Pecham's 'groan . . . at the illiteracy of the parish clergy'[2] must lose some of the dark significance with which it is commonly credited.

On the other hand, the prologues of the *Oculus Sacerdotis* probably reflect an actual condition of the clergy if we are to judge

London, 1927), pp. 101–4. Miss Allen's dating of Rolle's treatise *ante* 1322 may be a few years out, since *Judica B2* uses the *Pars Oculi*, which appears to have been written about 1327–9.

[1] 'Ignorantia mater errorum cunctorum maxime in sacerdotibus vitanda est, qui docendi officium in populo Dei susceperunt' (*CIC.*, ed. A. Friedberg, Leipzig, 1879, i. 141). Pecham's words are: 'Ignorantia sacerdotum populum praecipitat in foveam erroris . . .' (Wilkins, *Concilia*, ii. 54). Cf. the preamble to Quivil's synodal statutes of 1287, where the *Decretum* passage is repeated almost *ad verbum* (*ibid.*, ii. 143).

[2] 'Giraldus Cambrensis might laugh, and Pecham and Grosseteste groan, at the illiteracy of the parish clergy, but it is only fair to remember that the facilities for receiving any sort of education were very meagre' (J. R. H. Moorman, *Church Life in England in the thirteenth century* (Cambridge, 1946), p. 94).

from the explicit attempt each part makes to cater in a realistic fashion for ill-educated parish priests. Thus the *Sinistra Pars* provides them with an excellent *summa* of basic sacramental theology on which to improve themselves. This, naturally, demands a more elaborate treatment of the sacraments than in the *Dextera Pars* where the sacraments were dealt with as part of the programme of lay instruction. The sacrament of Order, for instance, which was passed over there because, the author said, it was no business of the laity, now gets full attention. Similarly, the Eucharist is handled at greater length: there is a chapter in which every rubric and action of the Mass is examined and explained, selections from which were later incorporated into the rubrics of the Canon of the Mass in some missals and manuals of the Salisbury usage.[1] In the tract on Order the detail is close enough to take us into the examination-room of a candidate for orders. 'Ordinands', the author says, 'are not to be examined too rigidly, but rather in a summary fashion, and leniently. Too great perfection is not required as long as a reasonable literacy, a legitimate age and a good character are not wanting'; 'the good opinion in which a candidate is publicly held can be equivalent to an examination: indeed it is clear (from the *Decretum*) that local candidates of good repute are to be spared examination.'[2]

This brief description of the *Oculus Sacerdotis* at least throws into relief some of the qualities which may have made it an attractive, if not imperative, purchase for the parish priests of the fourteenth century. There were, of course, many manuals of varying excellence to choose from, these being a legacy of the thirteenth century, but few if any of these showed the scope and realism of the *Oculus*. In character, indeed, the *Oculus* seems to belong to a *genre* of pastoral literature which embodies many features of, but clearly is distinct from, the better-known homiletic, penitential and moralizing treatises of the thirteenth and fourteenth centuries with which it is sometimes confused. In the *Oculus* the pastoral care is seen as a whole, while only certain aspects of that care are covered in compendia of virtues and vices, in *summae* of penance and confessional practice, in manuals of sermons and sermon-

[1] Cf. J. Wickham Legg, *Tracts on the Mass* (Henry Bradshaw Society, xxvii, 1904), pp. 270–4.

[2] MS. New College 292, fo. 94.

making. The *Oculus*, with its wider and often more sensitive vision of the needs of a priest in his parish, contrives to comprehend the essentials of the specialized treatises while embracing the education of the priest as well as of his parishioners. If, however, the *Oculus Sacerdotis* is to be considered in this light, this is not to set aside or minimize the value or the significance of the narrower expressions, continental or English, vernacular or Latin, of the literature of pastoral theology. The tradition which the *Oculus* represents is but one facet, however important or realistic, of the endeavour of the thirteenth and fourteenth centuries to better the training and education of clergy and laity.[1]

The *Oculus Sacerdotis*, nevertheless, was not the first manual of its kind to be composed for the convenience of the parochial clergy of England. Rather is it the culmination of an interesting series of manuals which, attempting to treat of the pastoral care in the wider sense that we have suggested above, seems to have had its beginnings in the *Summa de Casibus* of Thomas de Chabham about 1220.[2] But the *Oculus* differs from these on one important point. For although the manuals of Chabham, Wetherset and Simon Hinton, to name the more popular, run parallel to the great provincial and synodal legislation of the thirteenth century, little, if any, reference to this local legislation is to be found in them.[3] The

[1] The specialized literature of the thirteenth century is discussed in E. J. Arnould, *Le Manuel des Péchés* (Paris, 1940), pp. 1–59; and that of the thirteenth and fourteenth centuries in H. G. Pfander, 'Some medieval manuals of instruction in England and observations on Chaucer's "Parson's Tale" ', *Journal of English and Germanic Philology*, xxxv (1936), 243–58.

[2] Although the *Summa 'Cum miserationes'* of Thomas de Chabham, subdean of Salisbury, and perpetual vicar of Sturminster, is professedly 'de poenitentia', it ranges beyond the confines of manuals such as Raymund of Peñafort's *Summa de Casibus*, including, for instance, a chapter on the conduct of priests which begins 'Est etiam officium periculosum officium sacerdotum vel aliorum clericorum habentium curas animarum, et tamen nesciunt animas regere vel, si sciunt, negligunt' (MS. Oriel College 17, fo. 60r).

[3] It is perhaps unfair to include Thomas de Chabham in this general statement since he was writing before the wave of pastoral legislation had gathered force: no doubt he was composing his *Summa* about the same time as his diocesan, Richard Poore, was framing his synodal statutes, but, as Professor Cheney says, 'whether one stimulated the other to write it is impossible to say' (*English Synodalia*, p. 54). Chabham, however, senses the importance of a knowledge of local excommunications: 'secundum diversas regiones sunt diversi canones et diversae institutiones latae

Oculus, for reasons we have seen, looked back from the first quarter of the fourteenth century to the Lateran Council of 1215 and took in a century of particular applications of that Council's decrees in England. In this, and in its high theological content, would lie its appeal to the parochial clergy of the two centuries following.

If the recurrence of the work in wills and visitational records of the fourteenth and fifteenth centuries may be taken as an indication, the *Oculus Sacerdotis* was widely appreciated. Thus, in the register of church goods in the archdeaconry of Norwich which was compiled in 1368, the *Oculus Sacerdotis* occurs, in whole or in part, no less than eleven times,[1] while a brass at Emberton (Bucks.) depicting a priest in vestments has an inscription which might suggest that the *Oculus* had won a place for itself as a regular item of church furniture: 'Pray for the soul of Master John Mordon, once rector of this church, who, during his lifetime, gave to his church a Missal, an *Ordinale* and a *Pars Oculi*.'[2] The glimpses, however, that are afforded of the personal life of priests who possessed the *Oculus* are few and slight. But on one priest at least the work may have made a strong impression. For in leaving his copy of the *Oculus* to the church he had served, this priest also leaves seventeen shillings 'in memory of the ten commandments and the seven deadly sins'.[3]

Although the popularity of the *Oculus* declined gradually after the publication of its revision, the *Pupilla Oculi*, in 1384, some fifty manuscripts of it still survive in this country, and it is to be

sententiae, ut in aliquibus regionibus vel episcopatibus excommunicati sunt ipso facto omnes sortiarii et omnes sortiarie et omnes qui pervertunt testimonia defunctorum et omnes falsi testes et omnes usurarii. . . . Unde oportet quod quilibet sacerdos sciat constitutiones synodales factas in episcopatu suo . . .' (MS. Oriel College 17, fo. 50v). The synodal excommunications instanced bear a marked resemblance to those in Poore's synodal constitutions (cap. xlix).

[1] A. Watkin, ed., *Archdeaconry of Norwich, Inventory of Church Goods temp. Edward III*. (Norfolk Record Society, xix, 1947), ii. p. xlviii. Copies at Thwaite, Sall, Stiffkey St. John, Mileham, Gayton Thorpe, Tilney All Saints, Dersingham, West Newton, Merton, Swanton Abbot, Ashby.

[2] 'A fifteenth-century library list', *Records of Buckinghamshire*, xii (1927–33), 365–7. Mordon died in 1410.

[3] Will of Roger Shirreve, clerk, of St. Martin (near Ludgate ?), proved 1392: R. R. Sharpe, *Calendar of Wills proved and enrolled in the Court of Husting* (London, 1889), ii. 296–7.

found in wills and inventories as late as, and even after, 1500.[1] It was never printed, however, though the *Pupilla* was printed at least three times between 1510 and 1518, at London, Rouen and Paris. But the spirit of the *Oculus* persisted in the *Pupilla* which, as de Burgh expressly says, was 'for the most part dependent on the *Oculus Sacerdotis*, a manual more widespread than other manuals that have been inspired by a zeal for souls'.[2]

One notable feature of this tribute of de Burgh is that the *Oculus Sacerdotis* is cited anonymously. But although this could mean that the work was so commonplace by 1384 that no ascription was thought to be necessary, there are indications that the author may indeed have been unknown. There is not, for example, any mention of an author in the *Cilium Oculi*, which was issued as a supplement a decade, perhaps, after the *Oculus*[3]; nor in the *Regimen Animarum* of 1343, which makes explicit and very extensive use of the work.[4] Further, the manuscripts of the *Oculus* that belong to the fourteenth century are no more helpful, and generally limit themselves to something such as *Summa quae vocatur Oculus Sacerdotis*. No ascription of the *Oculus* seems to occur in any

[1] E.g. the will of Ralph Busby, vicar of the parochial church of Great Baddow, dated 1492: H. C. Malden, 'Ancient Wills: 2', *Trans. Essex Archeological Society*, vi (1896), 122; and that of Thomas Mawdesley, clerk of Myddleton, 1554: *History of the Chantries I* (Chetham Society, lix, 1872), 123–4. The copy of the *Oculus* in the Dean and Chapter Library, Canterbury (MS. D. 8), belonged, the flyleaf tells us, to Dom. W. Ingram, 'penit(entiarius) ecclesiae . . . Cant' olim'. A note in pencil on the MS. states that Ingram was penitentiary from 1511–1532.

[2] '. . . precursores nostri quidam zelo animarum permoti de his que regimen animarum concernunt sententias seu tractatus varios contexerunt, inter quos ille qui sacerdotis oculus intitulatur ceteris communior . . . (nostrum compendium) quia de predicto tractatu qui dicitur Oculus Sacerdotis pro magna parte excerptum est . . . Pupillam Oculi censui nuncupandum' (J. de Burgh, *Pupilla Oculi*, London, 1510, fo. ii).

[3] The purpose of the *Cilium Oculi* is clear enough, e.g. (on reserved censures): 'Sunt autem casus episcopales sufficienter recitati in Oculo Sacerdotis. . . . Item, casus papales in eodem libro satis patent praeter quos hos duos iniungendos decrevi . . .' (MS. Balliol College 86, fo. 232v), but whether the work is by the author of the *Oculus Sacerdotis* or by some contemporary is not easy to decide. Certainly it would seem to have been written within the period 1330–40.

[4] 'Incipit liber qui vocatur Animarum Regimen compilatus in anno Domini millesimo tricentesimo quadragesimo tertio. O vos omnes sacerdotes qui laboratis onerati et curati animarum attendite et videte libellum

form until the next century, when it appears in the *Catalogus* of John Boston, a monk of Bury who is said to have flourished about 1410. There the *Oculus Sacerdotis* is assigned to a William of Pagula, vicar of Winkfield in the Forest of Windsor, who would seem to have lived during the reign of Edward III.[1]

With the possible exception of Coxe, who betrays a little exasperation at times by describing the *Oculus* as *opus Willelmi de Pagula sive Iohannis de Burgo sive cuiuscumque sit*,[2] most bibliographers of later ages have accepted this ascription, and there is evidence to hand that Boston may not have misled them. This, in the main, is provided by four other works with which Boston credits Pagula, a *Summa Summarum*, a *Speculum Praelatorum*, a *Speculum Religiosorum* and an *Epistola ad Regem Angliae Edwardum III*.[3]

istum. . . . Compilavi enim hoc opusculum ex quibusdam libris, videlicet, Summa Summarum, Raymundi, Summa Confessorum, Veritatis Theologiae, Pars Oculi Sacerdotis, et de libro venerabilis Anselmi De Concordia Praescientiae et Praedestinatione et Gratiae Dei cum Libero Arbitrio . . .' (MS. Hatton 11, fo. 4r).

[1] The full William of Pagula entry in Boston's *Catalogus* will be given in the next note but one. But it may be noted here that a century after, and, perhaps, independently of, Boston, the catalogue of the books of Syon Monastery explicitly ascribes the three copies of the *Oculus Sacerdotis* that the monastery possessed to 'Magister Willelmus de Pagula' (*Catalogue of the Library of Syon Monastery, Isleworth*, ed. M. Bateson, Cambridge, 1898, p. 188, nos. T. 11, T. 32, T. 43).

[2] H. O. Coxe, *Catalogus Codicum Manuscriptorum* . . . (Oxford, 1852), e.g. MS. New College 292; Trinity 18.

[3] Boston of Bury *apud* T. Tanner, *Bibliotheca Britannico-Hibernica* (London, 1748), introduction, p. xl:

> Wilhelmus de Pagula, vicarius de Wingfeld, prope forestam de Windesor, floruit A.C. . . . et scripsit
>
> Summam Summarum de jure canonico pariter et divino et continet lib. v. Pr. *Ad honorem.* Fin. *respondendum.*
>
> Speculum Prelatorum.
>
> Speculum Religiosorum. Pr. *Accipite.* Fin. *passionem Christi.*
>
> Summam quae dicitur Oculus Sacerdotis. Pr. *Ignorantia.* Fin. *coronam vitae.*
>
> Ad regem Angliae Edwardum iii epist. i.

From this entry Bale, Tanner (*op. cit.*, p. 570) and later writers derive their basic information about William of Pagula. But in Bale's case there are some curious discrepancies. Here, for instance, Boston, in listing the *Oculus*, gives the *incipit* of the *Sinistra Pars* only. Bale, in his *Index* (*Index Britanniae Scriptorum*, ed. R. L. Poole and M. Bateson, Oxford, 1902, p. 143), repeats

For although all of these works, when identified, prove to be as anonymous as the *Oculus Sacerdotis*, their contents and character suggest immediately that Boston is at least correct in attributing four of the total five works to a single author. Thus, the *Pars Dextera* and *Pars Sinistra* of the *Oculus Sacerdotis* and the *Speculum Religiosorum* prove to be, by and large, a few chapters of the massive *Speculum Praelatorum*; one-third of the *Speculum Praelatorum* itself is explicitly dependent on the *Summa Summarum*; while half of the first part of the *Oculus Sacerdotis*, the *Pars Oculi*, is made up of passages woven together from both *Summa Summarum* and *Speculum Praelatorum*.[1] The strong impression of a unity of purpose and authorship created by this interlacing is put beyond reasonable doubt by a passage towards the end of the third book of the *Summa Summarum*. There, in a chapter 'De expositione Missae', the author excuses himself from developing this

this and the whole entry ('ex Bostoni Buriensis Catalogo'), but in his *Scriptorum Illustrium Maioris Brytanniae Summarium* (Basle, 1559, p. 448), where he says his information comes from Boston 'in magno doctorum Catalogo', he lists the *Oculum Sacerdotis Dextrum* and *Oculum Sacerdotis Sinistrum*, gives longer *incipits* than those in the above entry and produces a eulogy of Pagula which he says he is taking from Boston ('illa quidem sunt eius verba'). Since none of these details are to be found in the extract from a catalogue of Boston's which David Wilkins inserted in his preface to Tanner's *Bibliotheca* and which we have printed here, or in the only known version of a complete catalogue, Tanner's transcript in Camb. Univ. Lib., Add. MS. 3470, it is possible that there were, as Wilkins suggests in his preface (p. xv), two Boston catalogues, a 'major' and a 'minor', both or at least the 'major' of which Bale knew, while Tanner and Wilkins knew the 'minor' only. But for our purposes it must suffice to state that the information about William of Pagula which Bale claims to have taken from Boston of Bury 'in magno doctorum Catalogo' proves in fact to be as accurate as the basic details about Pagula and his works with which the only known version of Boston's *Catalogus* supplies us.

[1] A few examples of interdependence may be noted here. The MSS. quoted are as follows. *Oculus Sacerdotis*: MS. New College 292; *Summa Summarum*: MS. Bodley 293; *Speculum Praelatorum*: MS. Merton College 217; *Speculum Religiosorum*: MS. Gray's Inn Library 11.

Oc. Sac. (*Pars Oculi*)	fos. 13r–16v	: *Summa Summarum* fos. 219r; 250v.
	fos. 16v–24r	: *Spec. Praelatorum* fos. 162r–167r.
	fos. 24r–26r	: *Summa Summarum* fos. 218v–219r.
Oc. Sac. (*Dext. Pars*)	fos. 34r–61v	: *Spec. Praelatorum* fos. 142r–160r.
Oc. Sac. (*Sinistra Pars*)	fos. 66v–107v:	*Spec. Praelatorum* fos. 30v–71r.
Spec. Religiosorum	fos. 25r–54r	: *Spec. Praelatorum* fos. 90v–96v.
Spec. Praelatorum	fos. 30v–179v:	*Summa Summarum passim.*

subject, because 'I have already dealt fully with the exposition of the Mass in my small sacramental *summula*, the *Sinistra Pars Oculi Sacerdotis*. In any case I shall return to the subject again in the *Speculum Praelatorum*'.[1]

But if Boston of Bury is thus far proved to be correct, is this author Boston's 'William of Pagula'? A William of Pagula really did exist in the fourteenth century, and the four works whose unity of authorship is thus attested, together with the fifth work, the *Epistola ad Regem Edwardum*, can be dated to a span of years, 1320–31, within his known lifetime, 1314–32.[2] This convenient dating is only one of six striking resemblances between inferences from, or conclusions about, the five works attributed to Pagula and the only known facts of his life. For although the five works are of a rigidly anonymous character, a clue to authorship has been extracted from each which matches, detail for detail, the career of William of Pagula who, from documentary evidence, is known to have been a Master, a penitentiary of the diocese of Salisbury in 1322 and perpetual vicar of the parish of Winkfield near the Forest of Windsor in that diocese between 1314 and 1332. The *Summa Summarum*, despite an express anonymity,[3] betrays a hint that the author's name is Doctor (or Master) William[4]; the *Pars Oculi* informs us that he has had experience as a penitentiary,[5] and, granting our dating of the *Pars*, therefore before 1327; in three of the

[1] 'De huius missae expositione . . . tractavi ad plenum in modica summula sacramentali quae vocatur Sinistra Pars Oculi Sacerdotis eodem titulo. Sed plenius de hoc tractabo in Speculo Praelatorum . . .' (MS. Laud. misc. 624, fo. 108v; MS. Exeter College 19, fo. 182v; MS. Christ's College 2, fo. 109v; MS. Pembroke College (Cambridge) 201, fo. 189r). But other MSS. abbreviate the passage and speak impersonally: 'De hac materia tractatur ad plenum in quadam nova summa quae vocatur Speculum Praelatorum' (MS. Bodley 293, fo. 144v; MS. Magdalen College 134, fo. 172v; MS. Royal 10 D x, fo. 179v; MS. Harl. 5014–5, fo. 164v; MS. Edinburgh University Library 136, fo. 157r; MS. Worcester Cathedral Library F131, fo. 213r; MS. Durham Cathedral Library C. 11.13, fo. 143r).

[2] The sequence and dating of the five works are considered briefly in Appendix A *infra*.

[3] 'nomen collectoris exprimere nolo ne collectio vilescerit cognito collectore' (MS. Bodley 293, fo. 1v).

[4] 'Sed quid si per alia etiam rescripto contenta constat de persona mea, ut impetrat contra me W(illelmum) doctorem iure canonico . . .' (MS. Bodley 293, fo. 251r; MS. Pembroke College (Cambridge) 201, fo. 32v; and all other MSS.).

[5] Cf. the prologue to the *Pars Oculi supra* p. 87, n. 1.

works there are indications that he is indeed a priest of the Salisbury diocese[1]; from the *Epistola ad Regem Edwardum* it may be inferred that he is a parish priest in or near the neighbourhood of Windsor Forest about 1330–1,[2] and from the works as a whole that he wrote his *opera omnia* between 1320 and 1331.

If this circumstantial evidence, when taken with the fact that four of the works are by the same author, seems to argue a case for William of Pagula's claim to the title of all five works which Boston of Bury attributes to him, then the matter is, perhaps, clinched by a late fourteenth-century note at the end of a copy of the *Summa Summarum* which James most effectively concealed some forty years ago under the title *Decretales Novae* in his *Catalogue* of the manuscripts of Christ's College, Cambridge. This *Summa Summarum*, alone of the seventy-seven extant manuscripts of the *opera omnia*, contributes the welcome information: *Hoc opus compositum fuit per Dominum Willelmum de Pabula.*[3]

A Yorkshire man, perhaps, and from Pagula (Paull) near Kingston-on-Hull, William of Pagula, then a deacon, was instituted perpetual vicar of the church of Winkfield, on the outskirts of the Salisbury diocese, in 1314 and towards the end of the episcopate of Simon of Ghent.[4] Sometime during the next seven years he was

[1] Because the only synodal constitutions he quotes are those of Salisbury bishops, e.g. *Oculus Sacerdotis*, MS. New College 292, fo. 35v; *Speculum Praelatorum*, MS. Merton College 217, fo. 142v; and cf. p. 89, n. 1, *supra*. The *Summa Summarum* (MS. Bodley 293, fo. 25r) says that he does not belong to the diocese of Lincoln.

[2] Cf. Appendix A (IV) *infra*.

[3] MS. Christ's College 2, fo. 269r. Cf. M. R. James, *A descriptive catalogue of the manuscripts in the library of Christ's College Cambridge* (Cambridge, 1905), pp. 2–3, where the above note, to which Mr. R. B. Bartle first drew my attention, is printed. 'De Pabula' seems near enough to 'de Pagula' to allow the conclusion that this is Boston's William of Pagula.

[4] *Registrum Simonis de Gandavo*, ed. C. T. Flower and M. C. B. Dawes (Canterbury and York Society, 1934), p. 822. This may be the same William of Pagula, clerk, to whom Archbishop Greenfield of York granted letters dimissory in November 1313 (*Register of William Greenfield*, ed. W. Brown and A. Hamilton Thompson (Surtees Society, cli. 1936), iii. 197–8), although the prevalence of the name Pagula or of its variants, Poul, Paul, Pole, Pawel, in fourteenth-century Yorkshire makes it unwise to press the identification. Thus Willelmus de Sancto Paulo or William Paul, Carmelite and bishop of Meath (1327–49), was also known as Willelmus de Pagula, and has in fact been confused by some bibliographers with Boston's de Pagula

ordained priest and took a Master's degree, for on his appointment as penitentiary for Reading in 1321/22 (and a few months later, perhaps, for the whole of Berkshire), he is noted in Mortival's register as *Magister Willelmus de Pagula*.[1] After 1325, when he is still at Winkfield,[2] all trace of him disappears. But since there is no record of an admission to Winkfield before 1332,[3] it seems safe to assume that the years 1314–32 represent our present knowledge of the career and life of William of Pagula. No further preferment appears to have come his way, and although a seemingly personal reference in the passage of the *Summa Summarum* which gave us the name 'William' would suggest that Pagula was professing canon law at Oxford and a canon of St. Paul's, London, no external support for this has been found to date.[4]

Yet William of Pagula must have been something out of the ordinary run of parish priest. If the *Oculus Sacerdotis* alone shows one possessed of a delicate feeling for his less-educated fellows, his works as a whole bear the marks of a fine canonist and a competent theologian. Each, if we except the *Epistola*, reveals the same mas-

(cf. *Dict. Nat. Biog. s.vv.* Pagula, William, and Paul, William). But Bale and Pits, although sadly misrepresented by the *D.N.B.* on this point, are very careful to distinguish between the bishop and the vicar. Bale (*Index*, p. 143) writes: 'Guilhelmus de Pagula, alius ab illo Midensi episcopo, . . .', and again (*Summarium*, 1559, p. 448): 'Guilhelmus de Pagula, alius ab illo eiusdem cognominis qui . . . Midensis episcopus fuit. . . .' Likewise Pits (J. Pitseus, *De rebus anglicis*, Paris, 1619), though not in his notice of Pagula, the parish priest (*s.a.* 1350, p. 476), which otherwise copies Bale, but in his notice of Pagula, the bishop (*s.a.* 1280, p. 363): 'Guilhelmus Paghamus (alius ab illo qui Paghanerus seu de Pagula dicitur, et circa annum Domini 1350, floruit). . . .'

[1] Salisbury Diocesan Registry, *Reg. Mortival*, ii, fo. 132r: 'Poenitentiarii constituti in Archidiaconatu Berk' 8 id. Mar. 1321, et anno consecrationis nostræ VII°. . . Decanatus Radyngg tantum: Magister Willelmus de Pagula Vicarius de Wynkefeld.' (*Add. later hand*: Postmodum habet potestatem per totum archidiaconatum Berk'.)

[2] Muniments of the Dean and Chapter, Salisbury, Press 4, Box E, doc. 2.6: 'In vigilia Sancti Iacobi Apostoli anno domini 1325 presentibus Domino Willelmo Poul perpetuo vicario Wynkefeld. . . .'

[3] *Reg. Wyvil* ii, fo. 19r: 'Iohannes de Lavyngton presbyterus admissus ad vicariam de Wynkefeld . . .'

[4] 'Sed quid si per alia etiam rescripto contenta constat de persona mea, ut impetrat contra me W(illelmum) doctorem iure canonico legentem Oxon. et canonicum Sancti Pauli London., et sic per huiusmodi indicia constat de persona mea, an valeat rescriptum?' (MS. Bodley 293, fo. 25r, and the ten other MSS. that are extant in England.)

tery of general Church law, the same sense of the place and importance of the legislation of the Church in England, the same balance of law and theology which may be noted in the *Oculus Sacerdotis*. Possessed of a seemingly tireless zeal for the education of his contemporaries, he would write four major works within a decade and, perhaps, for the most part concurrently.[1] His *Summa Summarum* is a compilation of canon law and theology of five books and almost 350,000 words designed to provide every cleric, from parish priest to prelate, with an authoritative answer to every possible question that might arise out of his state or obligations. It is the only manual of canon law from an English source that can compare with the *Copiosa* of Hostiensis or the *Speculum* and *Reportorium* of Durandus, and it would commend itself to a variety of clerics: to Acton, the glossator of the Legatine Constitutions[2]; to a notary public who willed his copy to Archbishop Arundel[3]; to the famous curialist, Thomas Polton, bishop of Worcester, who, in his will, displays anxiety about its future.[4]

[1] There are many indications that Pagula had two or more of the works in hand at the same time, the most interesting of which is that in a manuscript of the *Summa Summarum* at Pembroke College, Cambridge (MS. 201, fo. 189: 'De expositione Missae'): 'De huius missae expositione . . . tractavi ad plenum in modica summula sacramentali quae vocatur Sinistra Pars Oculi Sacerdotis . . . sed plenius de hoc tractabo in Speculo Praelatorum . . . rubrica De officio celebrantis Missam, per totum. De officiis autem divinis . . . tractabitur ibidem in rubrica proxima praecedenti per totum. Quae omnia nondum adhuc plenum complevi in quibus et in aliis iuvet nos Omnipotens Deus.' (Cf. p. 98, *supra*.)

[2] In his *Septuplum* (1346), MS. Gonville & Caius Coll. 282, fos. 129r, 136r, a work written after his famous *Glossa*.

[3] *Testamenta Eboracensia* (Surtees Soc., xlv. 1864), iii. 1: will of John de Scardeburgh, notary public, 1395.

[4] Register of Henry Chichele, ed. E. F. Jacob (Oxford, 1938), ii. 487: 'Similiter lego unum librum qui vocatur Summa Summarum precii vi marcarum . . . cum cathena ferrea in choro ecclesie ipsius prioratus (Sancte Margarete virginis iuxta Marleburgh') aut in alio loco magis ad hoc apto perpetuo ligandum et inibi sub pena anathematis perpetuo, remansurum et scribatur in primo folio nomen conferentis et causa.' Polton, who was at the Council of Basle from the end of 1432 until his death in 1433, may have been responsible for introducing John Nider, prior of the Dominican convent there in this period, to the *Summa Summarum* which Nider seemingly knew when he was writing his *Manuale Confessorum* between 1434 and 1438. Cf. J. Nider, *Johannis Nider ordinis predicatorum Manuale Confessorum* . . . (Paris, 1477), fos. 6–9. Miss B. Smalley has kindly drawn my attention to the unexpected use of the *Summa Summarum* in the *Postilla in Mattheum*

But as though the *Oculus Sacerdotis* and this *Summa Summarum* were not enough for any one man, Pagula attempted to combine both in the *Speculum Praelatorum* which, swelling to a size twice that of the *Summa Summarum*, was never to command the same attention as these. Where eleven manuscripts of the *Summa Summarum* and fifty of the *Oculus Sacerdotis* are known to be extant in this country, the *Speculum Praelatorum* survives, solitary and incomplete, in a manuscript of 483 folios.[1] Yet, in a sense, it is his greatest work, not least in that it contains one of the finest sets of sermon *themata* of the fourteenth century.[2] Its offshoot, the *Speculum Religiosorum*, was more fortunate. Smaller, and a legal tract *de religiosis* of almost unique value at its time, it is extant in some ten manuscripts, accompanying five of the eight collections of legislation affecting monks which were made at Durham in the middle ages.[3]

But Pagula's first love was the parochial clergy. For them he wrote his *Oculus* and *Speculum Praelatorum*; they are not excluded from his *Summa Summarum*. And because of this, it is as a writer of pastoral theology that he deserves to be remembered. For he was that rare but ideal combination of canonist, theologian and parish priest. A canonist by training, perhaps, he knew intimately

of the famous Carmelite doctor, John Baconthorpe, which would appear to have been written about 1340.

[1] MS. Merton College 217. The actual text takes up 449 folios, the remainder consisting of an index, etc. Twenty-eight chapters of Part 2 are missing, and were not in the exemplar from which this copy was made: cf. fo. 179v, where the copyist writes 'Hic deficit de exemplari'.

[2] MS. Merton College 217, fos. 180r–449r, the third part of the *Speculum*. Besides *themata* (four or more) for every Sunday, festival and possible occasion of the liturgical year (fos. 180r–248r), there is an excellent set of sermon *Distinctiones* (*Aperire-Zelus*: fos. 248r–449r) from which the *themata* could be filled out.

[3] For a description of the manuscripts and a list of the contents of these collections see the introduction to *Chapters of the Black Monks*, ed. W. A. Pantin (Camden Society, 3rd ser., xlvii, 1933), ii, pp. viii–xvii. The *Speculum Religiosorum*, in its original form, accompanies only one of these collections; but the treatise *Abbas vel Prior*, which accompanies four of the others and was formerly thought to be a work of Uthred of Boldon, has turned out to be a rearrangement of the *Speculum*. The rearrangement was probably made before 1336, and thus before Uthred's day as a writer, since it makes no attempt to correlate the Constitutions of Benedict XII (1336) with the earlier legislation (Legatine Constitutions to *Clementines*) which the *Speculum Religiosorum* embodies.

the needs of parish priests; yet his desire and ability to better their legal education did not blind him to a deeper want, a knowledge of theology without which the executive side of the pastoral care may become mechanical and lifeless: with Decretal and provincial canon he gave them Aquinas and the *Stimulus Amoris*.[1] Seemingly abreast of the new devotional literature of the fourteenth century, he is in the vanguard of the new movement in pastoral theology begun by the German Dominican, John of Freiburg, in which moral theology has its place and law does not predominate.[2] For although Pagula never mentions the work by name, it is from the *Summa Confessorum* of John of Freiburg that his wide acquaintance with Albert, Aquinas and Peter of Tarentaise largely derives.[3]

It is possible, therefore, that Simon of Ghent, whose endeavour to raise the standard of education in the Salisbury diocese is well known,[4] may not have been unaware of the promise of the deacon, Pagula, when he instituted him perpetual vicar of Winkfield in place of a Master in Theology, lately resigned.[5] Nor can the dean and chapter who had the right of presentation have been lacking

[1] The whole of the *Stimulus Amoris* of James of Milan has been incorporated into the *Speculum Praelatorum*: the greater part of it occupies the second chapter of Part I entirely (MS. Merton College 217, fos. 11r—30v: *De contemplatione*; while the section on predestination appears in the middle of the first chapter, *De fide*, fo. 5r–v), which otherwise is composed of extracts from the popular *Summa Theologicae Veritatis* of Hugh of Strassburg. The *Stimulus Amoris* has been edited in the series *Bibliotheca Franciscana Ascetica*, iv (Quaracchi, 1905), and may also be found printed among the works of St. Bonaventure (*Opera omnia*, Paris (Vivès), 1868, xii). The *Summa Theologicae Veritatis* circulated in the middle ages as a work of Albert the Great, St. Thomas or St. Bonaventure, and is to be found printed in the Vivès edition of the *opera omnia* of each of these three writers.

[2] Cf. *Dict. Théol. Cathol.*, viii (i), 1924, 761–2, *s.v.* Jean de Fribourg (M. D. Chenu).

[3] These three authorities appear *passim* in the *Oculus Sacerdotis*, *Speculum Praelatorum* and *Summa Summarum* as they do also in many fourteenth-century works of general theology and canon law. I hope to prove later that the source of many quotations from these authorities in works of popular theology is the *Summa Confessorum* which, written about 1280–98, revised the *Summa de casibus* of Raymund of Peñafort, and, by an adroit use of the latest theological knowledge, gave the *Summa de Casibus* a new lease of life. Cf. John of Freiburg's prologue to his *Summa* printed in *Summa Confessorum reverendis patris Iohannis de Friburgo* (Lyons, 1518).

[4] Cf. K. Edwards, 'Bishops and learning in the reign of Edward II', *Church Quarterly Review*, cxxxviii (1944), 66–72, 78–9.

[5] *Reg. S. de Gandavo*, p. 822.

in confidence: a bare decade before, Winkfield had been the scene of grave and bitter disturbances.[1]

Towards the end of Pagula's known residence at Winkfield, the parish was to be disturbed once more, not this time by a wrangle over tithes, but by 'a great cry from the people of the neighbourhood of the Forest of Windsor' who were being sorely grieved by the demands made upon their labour and time by commissioners of the king. In this discontent, we possibly catch our only glimpse of Pagula, the parish priests' manualist, at home in his own parish. Moved to strike at the root of the trouble, Pagula turned his legal knowledge on the king in a fine appeal for letters of protection on behalf of his parishioners. Into this *Epistola ad Regem Edwardum* there are thrown Decretal—and, on occasion, Decretalist—the excommunications attached to *Magna Carta*, the Lambeth constitutions of Pecham, and even a quotation from the *Digest* in an attempt to persuade the king to relieve the distress of his parishioners who, for days on end, are compelled to hew and cart wood for a pittance and in violation of everything that the king at his coronation had sworn to observe.

Granted the authenticity of this *Epistola*, it is Pagula's last work. But when Archbishop Mepham, a year or two later in his *Speculum Regis*, took it up and gave it the character of a generalized indictment of the abuses of kingship,[2] there is no mention of William of Pagula. Already he has disappeared, submerged in his works. He will appear again only for a brief moment in Boston of Bury's eulogy of 'that great man, Pagula, who, skilled in both laws and in theology, smote the dissolute lives of clerics and priests with all his voice and power of pen: *sed non absque singulari modestia*'.[3]

[1] Cf. *Reg. S. de Gandavo*, pp. 180–4, 513.

[2] A treatise which is well known from Bishop Stubbs' use of it. Cf. W. Stubbs, *Constitutional History of England* (4th edition, Oxford, 1896), ii. 394, 423, 564, 567. Usually the *Speculum* is ascribed to Simon Islip, but we here accept Professor Tait's suggestion that Simon Mepham is a more likely author: cf. appendix A (IV), *infra*.

[3] Boston of Bury as quoted by Bale, *Scriptorum Illustrium Maioris Brytanniae Summarium* (Basle, 1559), p. 448. Cf. pp. 96–7, n., *supra*.

APPENDIX A

DATING AND SEQUENCE OF THE FIVE WORKS OF WILLIAM OF PAGULA

Two of Pagula's works, the *Oculus Sacerdotis* and *Summa Summarum*, were certainly in circulation by 1343, when both of them were used and referred to by the *Regimen Animarum*. On internal evidence, however, the *opera omnia* may be dated to the years 1320–31.

I. The *Sinistra Pars Oculi*, *Dextra Pars Oculi*, *Summa Summarum* and *Speculum Praelatorum* were written between 1320 and 1326, and probably between 1320 and 1322/3;

(*a*) 1320–6. The latest source quoted in these works is the gloss of Willelmus de Monte Lauduno on the *Clementines* (1319). There is no sign of a knowledge of any of the legislation of Pope John XXII, twenty of whose *Extravagantes* were glossed by Zenzelinus de Cassanis in 1325, or of the gloss of Iohannes Andreae on the *Clementines* (1326).[1]

(*b*) 1320–3. A note in the *Summa Summarum*[2] indicates that it was written after the *Sinistra Pars* and before the *Speculum Praelatorum*, but a longer version of that note suggests that the *Summa Summarum* and *Speculum Praelatorum* were being written together.[3] A date before 1322/3 is therefore suggested since the *Summa Summarum* does not show a knowledge of European events extending beyond 1322 or 1323.[4] The *Dextera Pars* may also be within the dating 1320–2/3, although it is possible that it was written a little after the *Sinistra Pars*.

[1] Cf. A. van Hove, *Prologomena ad Codicem Iuris Canonici* (2nd ed. Malines, 1945) for Willelmus de Monte Lauduno (p. 482) and Zenzelinus de Cassanis (p. 475). For the date of Iohannes Andreae, cf. J. F. Schulte, *Die Geschichte der Quellen und Literatur des canonischen Rechts* (Stuttgart, 1877), ii. 217.

[2] Cf. *supra*, p. 98, n. 1.

[3] Cf. *supra*, p. 101, n. 1.

[4] For example, in a chapter 'De Imperatore et eius electione' Pagula asks the question 'Quid iuramentum debet imperator facere papae' and answers 'Dic quod tale iuramentum: "Tibi Domino Iohanni Papae, ego, talis, promitto et iuro. . .." ' (MS. Bodley 293, fo. 18r). The contrast between

II. The *Speculum Religiosorum* was written after the *Speculum Praelatorum* and the *Dextera Pars Oculi*,[1] probably 1320–6. Being mainly an extract from the *Speculum Praelatorum* it is not easy to date it with any great exactitude, but the dating and reasons given in I (*a*) above may certainly be applied to it.

III. The *Pars Oculi* was written after 1326 and probably before 1328.

(*a*) After 1326. It uses Iohannes Andreae's gloss on the *Clementines* (1326).

(*b*) Before 1328. The *Pars Oculi* does not refer to the provincial constitutions of Simon Mepham (1328). This is all the more striking since the author is a priest of the diocese of Salisbury. For Bishop Roger Mortival, within five weeks of the promulgation of these constitutions, had ordered them to be read publicly on Sundays and holy days throughout his diocese, laying stress particularly on those statutes to which an excommunication was attached. Remembering the catalogue of excommunications in the *Pars Oculi* and the care taken to include censures from provincial constitutions, it is unlikely that Pagula would have allowed this opportunity to pass of adding to his list or of bringing it up to the moment.[2]

the definite 'John' (XXII) and *talis* suggests that Pagula was writing while the issue between the rival claimants for the empire declared vacant by John XXII was still undecided, and before Lewis of Bavaria emerged victorious in 1322.

[1] Cf. *Speculum Religiosorum* (MS. Egerton 746, fo. 84r): 'De ceteris peccatis mortalibus . . . quaere in summa quae vocatur Oculus Sacerdotis scilicet in Dextera Parte'.

[2] Salisbury Diocesan Registry, *Reg. Mortival* II, fo. 243r: ' . . . Statuta in concilio provinciali ad diem veneris post festum conversionis Sancti Pauli Londoniis convocata edita suscepimus sub sigillo venerabilis patris Domini Simonis., continentia seriem hanc verborum "Zelari oportet", etc. Cum igitur parum prosit statuta condere nisi fiat executio eorumdem vobis et vestrum singulis auctoritate dicti concilii et ex dicti patris iniunctione firmiter iniungendo committimus et mandamus quatenus copiam praesentium absque mora assumentes, et statuta praedicta et praesertim ea in quibus maioris excommunicationis sententiam contrarium facientes incurrunt, vos . . . in vestris capitulis . . . et singulis ecclesiis infra iurisdictionem vestram consistentibus cum maior populi affuerit multitudo diebus dominicis et festivis solemniter et intelligibiliter . . publicantes . . .'

IV. The *Epistola ad Regem Edwardum III* is not later than 1331.

In 1891, when M. Joseph Moisant[1] published an edition of the well-known *Speculum Regis* which he attributed to Simon Islip, he also published what seemed to be a 'first recension' of the *Speculum*: it had the same *incipit* as the *Speculum*, and clearly was connected with the *Speculum Regis* which refers to it expressly on two occasions. Ten years later, Professor Tait published an article in which he dated the 'first recension' and the *Speculum Regis* more precisely than Moisant had done; the 'first recension', he proved, was not written later than 1331, and the *Speculum Regis* not later than 1332; and he proposed that Simon Islip did not qualify for the authorship as readily as Archbishop Simon Mepham.[2]

There are, however, grounds for believing that the 'first recension' thus published with the *Speculum Regis* of Islip or Mepham, and dated before 1331 by Professor Tait, is really the *Epistola ad Regem Edwardum* which is attributed to William of Pagula by Boston of Bury:[3]

1. The title given to Pagula's work by Boston agrees with the *explicit* of the 'first recension' which is: 'explicit epistola edita ad dominum E. regem angliae'. (The *explicit* of the Islip or Mepham *Speculum Regis* is always 'explicit Speculum Regis Edwardi'; the confusion between *Epistola* and *Speculum* has resulted from identical *incipits*.)

2. The 'first recension' differs in character from the *Speculum*:

(*a*) It is a localized appeal, from the locality of Windsor Forest, for letters of protection,[4] while the *Speculum* is a generalized indictment of the abuses of kingship.

(*b*) It is presumably written by a parish priest, since he

[1] J. Moisant, *De Speculo Regis Edwardi III . . . quem . . . conscripsit Simon Islip* (Paris, 1891). The 'first recension' is printed pp. 83–123.

[2] J. Tait, 'On the date and authorship of the "Speculum Regis Edwardi" ', *English Historical Review*, lxi (1901), 110–15.

[3] Professor Tait and M. Moisant were not aware of this ascription.

[4] E.g.: 'O domine mi rex, erubesce et contremisce quando a te petuntur huiusmodi litterae protectionis . . . illi de familia tua capiunt de foresta de Widesore et locis vicinis homines carectas et equos pauperum et compellunt eos, recedere a domibus propriis . . . et ibi carriare boscum . . .' (*Epistola*, ed. Moisant, p. 100); ' . . . et de hoc, fit magnus clamor populi, in partibus de Windesore, ubi traxisti originem . . .' (*ibid.*, p. 106).

refers to those on whose behalf he is pleading as 'illi de parochia'; the *Speculum* could have been written by anyone.

(*c*) It is written by a canonist who can cite and employ Decretal, Decretalist and provincial legislation. There is no evidence of canon law in the *Speculum*.

William of Pagula qualifies, therefore, for the title of author of this printed 'first recension', the *Epistola ad Regem Edwardum*, because:

(*a*) Boston ascribes such a work to him.

(*b*) It bears the marks of William of Pagula, canonist and parish priest.

(*c*) It is written from a parish close to Windsor Forest at a time when Pagula was still parish priest of Winkfield.

APPENDIX B

MANUSCRIPTS OF THE *OCULUS SACERDOTIS* (COMPLETE OR INCOMPLETE) AND *SUMMA SUMMARUM*

KNOWN TO BE EXTANT IN GREAT BRITAIN OR IN AMERICA

Oculus Sacerdotis

BRAMSHILL HOUSE, Hants, 14.
CAMBRIDGE:
University Library, Gg. 1. 13, Gg. 6. 10, Gg. 6. 12, Ii. 2. 7, Mm. 5. 33.
Gonville and Caius College, 62, 87, 352, 443, 487.
Pembroke College, 248, 281.
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THE RE-ESTABLISHMENT OF THE CHURCH OF ENGLAND, 1660–1663

By Anne Whiteman, M.A., D.Phil., F.R.Hist.S.

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AFTER a period of comparative neglect, the ecclesiastical history of the Restoration has recently again attracted the attention of historians. Dr. Bosher's *Making of the Restoration Settlement* has luminously exposed the politics by which the Church of England recaptured the establishment, and Mr. A. G. Matthews, by tracing the biographies of the Anglicans displaced during the Interregnum and the Non-Anglicans ejected after the king's return, has shown how changes in doctrine and discipline affected the ministry during these years.[1] Here an attempt will be made to discuss another aspect of the re-establishment: its administrative reconstruction. Dr. Bosher has shown how the exigencies of politics led to the piecemeal restoration of Anglicanism, instead of the immediate ecclesiastical revolution which, from a legal point of view, could have been attempted.[2] That the traditional episcopal administration was thereby eventually reconstructed is of course well known, but it seems worth asking what light the administrative records of certain dioceses can throw not only on the details of how this took place, but also on the structure and character of the revived system.

Dr. Bosher contends that 'by May, 1661, the re-establishment of the Church of England was, in all essentials, virtually complete', and certainly it was already clear that the future lay neither with the Presbyterians nor with those who favoured modified episcopacy.[3] From the point of view of this enquiry, however, 1663 is a more significant date, for not till then was episcopal administration in full working order and the re-establishment of the church a reality in most parishes throughout the land. Only gradually, too, did it become apparent that, so far as Parliament and Convocation

[1] R. S. Bosher, *The Making of the Restoration Settlement, 1649–1662* (1951); A. G. Matthews, *Walker Revised* and *Calamy Revised* (1948, 1934).
[2] Bosher, *op. cit.*, cc. iv, v.
[3] *Ibid.*, p. 216 and ch. iv.

were concerned, the old system was to be restored unaltered except for the abolition of High Commission and the proscription of the *ex officio* oath.[1] To say that no innovations or reforms were considered would not be wholly true, but such modifications as were projected in the Worcester House Declaration of 1660 amounted to little more than diplomatic gestures in the negotiations with the Presbyterians,[2] and the discussions over new canons in 1661 not only came to nothing, but also seem never to have been very comprehensive in their range.[3]

In view of the attacks on the traditional organization which had preceded the Civil War, this omission to carry through any reforms of its less efficient or less popular aspects itself deserves attention. Whether churchmen at the Restoration were well-advised to allow this complete re-establishment is a question which may fairly be asked and an answer sought in the administrative records of the Church. Gilbert Burnet, who later as bishop of Salisbury was to find much in it to criticize, thought that a great opportunity for reform had been missed: Convocation, he wrote, 'had it then in their power to have reformed many abuses, and particularly to have provided an effectual remedy to the root of all those which arise from the poor maintenance that is reserved to the incumbents'.[4] This contention deserves careful examination. It must be asked how true it is to say that a unique opportunity for reform did exist in these years, and also how serious, both from a short-term and a long-term point of view, was the failure to modify the traditional system. As events were to turn out, conditions in the next hundred and fifty years were scarcely favourable to the implementation of the many plans for its improvement. Convocation was more or less shelved,[5] Parliament was to find concern with political rather than administrative questions, and it was to be left to nineteenth

[1] By 13 Car. II, St. 1, c. 12.

[2] E. Cardwell, *Documentary Annals of the Reformed Church of England* (1844), ii. 285–301; Bosher, *op. cit.*, pp. 184 ff.

[3] Bosher, *op. cit.*, pp. 230–1; for later schemes, cf. Bodleian, MSS. Tanner 280, fos. 189 ff.; 315, fos. 98 ff.

[4] G. Burnet, *History of My Own Time*, ed. O. Airy (1897), i. 329–30; cf. *Supplement to Burnet's History of My Own Time*, ed. H. C. Foxcroft (1902), pp. 329–31, 498–506.

[5] N. Sykes, *Church and State in England in the XVIIIth century* (1934), pp. 11–12, 300–1, 310 ff.

century legislation effectually to modify the basically medieval organization.

For the purpose of this investigation use has been made primarily of the records of Exeter and Salisbury, and to a lesser extent, Lincoln [1] and Oxford [2] dioceses. One general conclusion from the evidence examined must be stressed: the danger of assuming that conditions and practice in any one diocese are representative of general conditions and practice of the time. A comparative study of only four dioceses shows the wide variety of usage which was perpetuated at the Restoration, and any conclusions offered here are accordingly put forward in the realization that they can be, at best, only a partial answer to the questions under discussion.

Examination of the process of re-establishment must begin, briefly, with the cathedral chapters, for, as Dr. Bosher has shown, their immediate reconstruction was essential if bishops to fill the many vacant sees were to be canonically elected.[3] Neither at Salisbury nor at Exeter do many difficulties seem to have been encountered. At Exeter, where chapter meetings began again on 31 August 1660, the admission of five new residentiaries had by 15 September brought up the numbers to the statutory nine, and within the next few months the canons set out to recover and restore to its pristine use cathedral and chapter property, to reinstitute the traditional corporate and choral worship and to lease out again the chapter estates.[4] At Salisbury reconstruction followed much the same pattern: the new canons were admitted at

[1] For permission to consult these records, I am indebted to Major-General Sir Godwin Michelmore, Registrar to the Lord Bishop of Exeter; to Miss M. P. Crighton, lately Honorary Librarian, and Miss O. M. Moger, lately Honorary Archivist, of Exeter Cathedral Library; to Mr. A. M. Barker, Registrar to the Lord Bishop of Salisbury; to the late Rev. Chancellor Dimont and the late Rev. Canon Quirk, and to Mrs. J. Varley and Miss D. Williamson, Archivists to the Lincolnshire Archives Committee. I should also like to thank Miss Kathleen Major for much help and encouragement. Her paper on 'The Lincoln Diocesan Records', *Trans. Roy. Hist. Soc.*, 4th Ser., xxii (1940), 39–66, admirably illustrates the continuity of ecclesiastical administration and its records.

[2] In the Bodleian Library.

[3] Bosher, *Restoration Settlement*, p. 161; cf. pp. 159 ff.

[4] Exeter, Cathedral Library, D. & C. MS. 3559, fos. 1–10 and *passim*; W. J. Harte, 'Ecclesiastical and Religious Affairs in Exeter, 1640–1662', *Trans. Devon. Assoc.*, lxix (1937), 41–72.

a meeting held on 14 September, and on 1 October the chapter sat to elect a new bishop in place of Brian Duppa, now translated to Winchester.[1] Death had dealt more severely with the chapter at Lincoln, where the installation on 1 July of Raphael Throckmorton as archdeacon of Lincoln had to be performed by a mere prebendary, for continuity in cathedral chapters, as well as in the episcopal succession, had stood in grave danger as the Interregnum stretched on.[2] The records of these corporate bodies show how strong were precedent and tradition, and it is scarcely surprising to find how faithful was the restoration of previous administrative and institutional customs.[3] In some dioceses episcopal visitations of the cathedral and chapter were undertaken while some of this reconstruction was still in progress: Humphrey Henchman visited at Salisbury as early as September 1661, and Seth Ward at Exeter in February 1663.[4]

Episcopal and archidiaconal administration were, on the whole, revived rather more slowly. Not until the middle of January 1661 were some sees filled, and the lack of a bishop must have held up any effective reconstruction, although at Exeter, to which John Gauden was not consecrated till 2 December, a registry official was already busy at work in October.[5] Gauden held his first ordination on 13 January 1661; institutions to livings began again on 21 December 1660.[6] At Lincoln, Robert Sanderson, consecrated on 28 October, held his first ordination the same, and his first institution the following day.[7] At Hereford, to which see Nicholas Monk was consecrated only on 6 January 1661, institutions did not begin again till 15 January.[8] At Oxford and at Salisbury, on the other hand, where the bishops had survived the

[1] Salisbury, Cathedral Muniment Room, Greenhill and Butler Reg., fos. 1–6.

[2] Lincoln, D. & C. A/3/9, fo. 207r.; Matthews, *Walker Revised*, p. 9; Bosher, *op. cit.*, pp. 89 ff.

[3] Well illustrated by Exeter, Cath. Libr., D. & C. MSS. 3601, 3611[a], 3713, 3753, 3787, 3802, 4036.

[4] Salisbury, Cath. Munt. Room, Greenhill and Butler Reg., fos. 12–16v.; Exeter, Diocesan Registry, Bp's MSS. 1128–35.

[5] Exeter, Dioc. Regy., Bp's MS. 44[c], p. 103.

[6] Exeter, Dioc. Regy., Bp's MSS. 50[A]; 24, fo. 1r.

[7] Lincoln, Reg. xxxi, p. 129; Reg. xxxii, fo. 1r.

[8] Hereford Diocesan Registry, Reg. 1635–67, fo. 185v. I am indebted to the Registrar to the Lord Bishop of Hereford, Mr. P. Gwynne James, for permission to examine the records.

Interregnum, administration began again rapidly after the king's return. At Oxford, institutions date from 28 July and ordinations from 2 August; at Salisbury, institutions were resumed as early as 21 June and seventy were carried out between then and Duppa's translation on 10 September.[1] Meanwhile the officials to carry on the legal business of the bishops and archdeacons were being appointed: at Lincoln, for example, patents were granted at the end of October and the beginning of November 1660 to the bishop's vicar-general and official-principal, to his registrar, to the commissaries of Buckingham and Huntingdon archdeaconries, and to the registrars of the commissaries of Buckingham and Bedford—all, be it noted, being appointments for life. The registrar of the archdeaconry of Berks, John Halloway, merely resumed his work which the war had interrupted.[2]

The urgent need, in the first years after the Restoration, for a good supply of clergy ordained according to the Anglican rite needs no emphasis. Abnormally large ordinations were certainly held during the years 1660–3, by which time most of the livings were filled. At Exeter, John Gauden ordained ninety candidates between January 1661 and February 1662, and Seth Ward, his successor, up to the end of 1663, ordained eighty-four more.[3] In view of the importance of the character and learning of the men ordained at this time, many of whom must have been destined to take the place of ejected nonconformists, it is unfortunate that virtually nothing is known of their examination; some candidates were certainly rejected, but for what reason it is impossible to learn.[4] Academically, at any rate, a considerable number of them were well qualified: of those ordained at Exeter between 1660 and 1663, between 57 per cent and 63 per cent were graduates,[5] and

[1] Bodl., MS. Oxf. Dioc. Papers d. 106, fos. 9r., 11r.; Salisbury, Dioc. Regy., Reg. 1644–74.

[2] Lincoln, Reg. xxxii, fos. 11r., 1v.; Bodl., MSS. Oxf. Archd. papers—Berks c. 80, fos. 151v., 153r.; c. 81, *passim*.

[3] Exeter, Dioc. Regy., Bp's MS. 50^{A}; Salisbury, Dioc. Regy., Subscription Book 1662–87 (including some Exeter ordinations). In arriving at these totals, candidates who received both orders in the diocese have only been counted once.

[4] E.g. Exeter, Roborough Library, Ordination Papers, Bundle 1, list of candidates, 21 Sept. 1662; cf. Dioc. Regy., Bp's MS. 50^{A}.

[5] Exeter, Dioc. Regy., Bp's MS. 50^{A}; Salisbury, Dioc. Regy., Subscription Book 1662–87; checked by reference to J. Foster, *Alumni Oxonienses*,

that this was not abnormal is obvious from such figures as a total of six graduates among eleven candidates ordained by Henchman at Salisbury on 22 December 1660 and at least thirty-one graduates among thirty-seven candidates ordained by Skinner at Oxford on 20 September 1663.[1] Some ordinands at this time had already some experience of the ministry, albeit not always within the Anglican fold. The preaching abilities of James Trevillian and Josias Hall were highly commended by the congregations at Camborne and St. Breock before they were ordained in 1661,[2] and at Salisbury a notable ordinand in 1662 was Walter Bushnell of Box, the justice of whose ejection in 1656 had been a cause of much controversy.[3] Evidence of the abnormal conditions prevailing may be seen in the large number of ordinations *extra tempora*, the many candidates ordained to both orders on the same day,[4] and the number of rather older men offering themselves for ordination.[5] Within the next few years the normal procedure was largely restored. In both Exeter and Salisbury dioceses most of the candidates were ordained at the Ember seasons (particularly at Trinity and Michaelmas) and in the cathedral city, and the numbers of those receiving both orders at once dropped, at Exeter, from ten out of fifty-two in 1663 to one out of twenty in 1667.[6] Instead of candidates of mature years, many in the future were to be below canonical age.[7]

Although the laws governing ordination were revived unaltered, there was little complacency about their application in the Restoration church. Sheldon in 1665 and Sancroft in 1678 and 1685 both urged the more careful examination of candidates

1500–1714 (1891–2) and J. and J. A. Venn, *Alumni Cantabrigienses Part I (to 1751)* (1922–7).

[1] Salisbury, Dioc. Regy., Reg. 1644–74; Bodl., MS. Oxf. Dioc. Papers d. 106, fos. 19v., 20r.; Foster and Venn, *opp. citt.*

[2] Exeter, Rob. Libr., Ordination Papers, Bundle 1; Dioc. Regy., Bp's MS. 50[A] (25 March and 13 Jan. 1661).

[3] Salisbury, Dioc. Regy., Reg. 1644–74 (1 Oct. 1662); *D.N.B.*

[4] Exeter, Dioc. Regy., Bp's MS. 50[A]; Lincoln, Reg. xxxi; Bodl., MS. Oxf. Dioc. Papers d. 106.

[5] E.g. at Exeter in 1662–3, Thomas Chanon (c.40), George Prowse (c.53), William Orchard (c.52). Exeter, Dioc. Regy., Bp's MS. 50[A]; Foster, *op. cit.*

[6] Exeter, Dioc. Regy., Bp's MS. 50[A]; Salisbury, Dioc. Regy., Regg. 1644–74, 1674–88; Subscription Book, 1662–87.

[7] Bodl., MSS. Tanner 134, fo. 27v.; 29, fos. 28r., 39r.

and a stricter adherence to canonical requirements.[1] Letters testimonial, Sancroft wrote, were not to be granted 'upon the credit of others, or out of a judgment of charity, which believes all things, and hopes all things', but from personal knowledge only, and how uncritical most recommendations were may be seen from the ordination papers of the period.[2] Although the efficiency of the established procedure depended to a dangerous degree on the veracity of those who spoke for the candidates, on the perspicacity of their examiners and on the conscientiousness of the bishop, the system as a whole, then and later, seems to have worked reasonably well,[3] and apart from Burnet's revolutionary scheme for a theological college no important suggestions for its reform were put forward.[4]

Not until July 1661 was the power to inflict coercive punishment legally restored to the ecclesiastical courts, but some had already begun to sit again, to deal with such matters as probate and tithe, as indeed they had continued to do till the *de facto* abolition of episcopacy.[5] The records of the Court of Arches begin again in November 1660 and those of the archdeacon of Berks's court in March 1661.[6] Nowhere is the basic conservatism of the re-establishment of the church better seen than in the revival of its judicial authority. Except for High Commission, the numerous courts of the ordinary and peculiar jurisdictions [7] took up again unaltered the powers they had exercised before the Civil War, save for the *ex officio* oath; revived even were such curious anomalies as the separate courts at Exeter of the official-principal and of the vicar-general, instead of the usual single consistory court sitting in the names of the two officials and typifying the

[1] D. Wilkins, *Concilia Magnae Britanniae et Hiberniae* (1737), iv. 582, 600, 612–14.

[2] *Ibid.*, iv. 600; Exeter, Rob. Libr., Ordination Papers, Bundle 1.

[3] Cf. Sykes, *Church and State*, pp. 96 ff.

[4] *Supplement to Burnet's History*, ed. Foxcroft, pp. 500–1; cf. Cardwell, *Documentary Annals*, ii. 294–5; Bodl., MS. Tanner 280, fo. 189r.

[5] 13 Car. II, St. 1, c. 12; on the position of the courts after the passing of 17 Car. I, c. 11, W. A. Shaw, *History of the English Church during the Civil Wars and under the Commonwealth* (1900), i. 230.

[6] Lambeth, Court of Arches, A.2; Bodl., MS. Oxf. Archd. papers—Berks, c. 81. I am indebted to Miss D. Slatter for help with the Lambeth records.

[7] Conveniently listed in *Returns of all Courts which exercise Ecclesiastical Jurisdiction.* H.C. (1828). XX, 229.

holding of both offices by one man.[1] Moral cases as well as those arising from breaches of ecclesiastical discipline still came before them, and they had jurisdiction also in matrimonial and testamentary matters, in defamation and in many cases involving tithe.[2] Procedure remained cumbrous and slow and cases often dragged on for over a year. John Astell, vicar of St. Leonard's, Wallingford, was still trying to recover tithes in January 1663 in a case which had begun in May 1661.[3] Fees obviously varied, but at Exeter those who appeared once only and satisfied the court often had to pay as much as 5*s.* or 6*s.* 4*d.*[4] Compurgation was still used, and so was public penance.[5] Its unpopularity is illustrated by the efforts of anyone of social standing to avoid it, like Thomas Gore of Alderton, an influential landowner who persuaded the court to grant commutation, but such concessions appear to have been uncommon.[6] Particularly resented was the use of excommunication to enforce obedience to court orders. The inevitable result is clear in the comment of a Wiltshireman that 'he cared not for the Court nor power of it, it was but Excommunication'.[7] No doubt the abolition of High Commission did weaken the courts in their dealings with the rich and influential—a Salisbury official was still deploring its passing as late as 1677 [8]—but they still affected the lives of men of all classes.

[1] Exeter, Cath. Libr., Bp's MSS. 765[A], 815 (Off. Prin.); 765 (Vic. Gen.); for an explanation of the system, Rob. Libr., P.R. Bundle 237. E. Gibson, *Codex Juris Ecclesiastici Anglicani*, 2nd edn. (1761), ii. 989–90, comments on the proper work of the two officials. At Salisbury, Lincoln and Oxford only one consistory court existed in the seventeenth century.

[2] Well illustrated in Exeter, Cath. Libr., Bp's MSS. 765, 765[A], 815.

[3] Bodl., MS. Oxf. Archd. papers—Berks c. 81, fos. 5v., 70r., etc.

[4] Exeter, Cath. Libr., Bp's MS. 765 *passim.*

[5] E.g. Salisbury, Dioc. Regy., Ep. Lib. Act., Box 17, 1662–9 and 1671–80 (12 July 1664; 2 May 1665); Exeter, Cath. Libr., Presentments: Swimbridge, Moretonhampstead parishes.

[6] Salisbury, Dioc. Regy., Citations, Bundle 1682–4, *Quorum Nomina* Citations, Malmesbury deanery. For the Gore family, J. Aubrey and J. E. Jackson, *Wiltshire: The Topographical Collections of John Aubrey* (Devizes, 1862), p. 47.

[7] Salisbury, Dioc. Regy., Ep. Presentments in Visitations, 1668 (Sutton Mandeville: Chalke–Amesbury deaneries); cf. F. D. Price, 'The Abuses of Excommunication and the Decline of Ecclesiastical Discipline under Queen Elizabeth', *Eng. Hist. Rev.*, lvii (1942), 111–12.

[8] Salisbury, Dioc. Regy., 'Proceedings of Bp. Ward against Mr. Batt, 1676–7'; cf. Bosher, *Restoration Settlement*, p. 256 and n.

No less a person than the future Speaker of the House of Commons, Edward Seymour, appeared before the Salisbury consistory court in 1671.[1]

'Blessed be God who hath taken down our harps from the willows, hath brought our Courts into their former current, restor'd our Jurisdiction to its pristine beauty, and turn'd our captivity from under Committee men, into the milde and sweet government of Episcopal jurisdiction', rejoiced a preacher in 1662.[2] Such enthusiasm was rare, and the courts were no more popular than they had been before the Civil War. They were still attacked in the House of Commons[3] and harried by writs of prohibition, a proof in itself that they were still important enough to excite jealousy from the common lawyers,[4] and Burnet could hardly find words strong enough to condemn them. They were, he wrote, 'the most corrupt courts of the nation, in which they think of nothing but of squeezing and oppressing people by all the dilatory and fraudulent ways that are possible'.[5] A study of the Exeter and Salisbury court records of the Restoration period does not suggest that they were quite as bad as this, but it was undeniably unfortunate that after the Interregnum no attempt was made to remove obvious abuses.

Some reform was probably intended in the abortive canons of 1661, and was certainly discussed in 1664 and particularly 1668,[6] when the important suggestion was made that excommunication should be limited to serious offences only, and a new sentence of contumacy, enforceable by a writ *de contumaci capiendo*, introduced, which would have involved civil disabilities including

[1] Salisbury, Dioc. Regy., Ep. Lib. Act., Box 18, 1670–4, fos. 152r., 152v., 156r., 160v.; *D.N.B.*

[2] Bodl., B. 7. 9. Linc., no. 16, p. 7.

[3] E.g. A. Grey, *Debates of the House of Commons, 1667–94* (1763), i. 110–11; ii. 72; v. 59–60.

[4] E.g. Exeter, Cath. Libr., C.C. Bundle 164[B]; cf. Bodl., MS. Tanner 315, fo. 85v.; Grey, *op. cit.*, v. 59–60.

[5] *Supplement to Burnet's History*, ed. Foxcroft, p. 331.

[6] Bosher, *Restoration Settlement*, p. 231; Bodl., MSS. Tanner 315, fos. 98 ff., 102 ff., 107 ff.; 280, fos. 189 ff. The discussions of 1664 seem to have concerned the courts only (MS. Tanner 315, fo. 66); those of 1668 were more comprehensive. The latter sprang from a fear that parliament would reform the ecclesiastical administration if it did not reform itself (Bodl., Add. MS. C. 308, fo. 114r.; cf. MS. Tanner 315, fos. 88r., 92r.; Grey, *op. cit.*, i. 84, 110–11).

imprisonment, without excluding the offender from church or christian burial.[1] Other criticisms made in 1668 concerned delay in proceedings, confusion caused by concurrent, exempt and peculiar jurisdictions, excessive or uncertain fees, abuse of commutation of penance, frivolous appeals, vexatious citations and corrupt court officials.[2] Why reform of such abuses was never introduced, either at the Restoration or later, is not entirely clear; some remedies were considered seriously enough to be drafted as bills.[3] Probably the piecemeal re-establishment of the courts made a planned reform difficult even as early as 1661, and the granting to officials of patents for life created a strong vested interest in the continuation of the existing system.[4] Change also was feared for its own sake. To a suggestion that archidiaconal and peculiar jurisdictions should be abrogated, the judges and advocates of Doctors' Commons in 1668 replied 'if that should be attempted, soe that the antient mounds should come to be shaken, and put upon a new Basis, the whole frame might be in danger'.[5] Yet had the courts been reformed, they might well have enjoyed greater co-operation from contemporaries and better have survived, as an effective force, into the eighteenth century, when their authority and the range of their business markedly diminished.[6] As matters stood, the most convenient way of cutting short a case or bringing a recalcitrant offender to heel was by the direct intervention of the bishop, a frequent occurrence in both Exeter and Salisbury dioceses[7] in the Restoration period, particularly where the clergy were concerned. But such action was inevitably less effective than a general reform of procedure, while its frequency naturally depended on the interest and conscientiousness of the individual bishop.

[1] Bodl., MS. Tanner 315, fos. 98–9. Cf. the draft bill by Sir Leoline Jenkins, MS. Tanner 315, fos. 109–10; versions also exist at Lambeth (MS. 929, nos. 107, 119) and at Salisbury, Dioc. Regy., Box Ep. Misc.

[2] Bodl., MSS. Tanner 315, fos. 80 ff., 98 ff., 88 ff.; 280, fos. 189 ff.

[3] Bodl., MSS. Tanner 315, fos. 109–10; 447, fos. 20, 125 ff., 175 ff.

[4] One of the schemes (probably of 1668) suggested compensation for officials of the courts abolished. Bodl., MS. Tanner 315, fo. 84r.

[5] *Ibid.*, fo. 88v.

[6] Well seen from a comparison of seventeenth and eighteenth century court books, e.g. Salisbury, Dioc. Regy., Ep. Lib. Act., Boxes 6^{B}–25.

[7] E.g. Exeter, Dioc. Regy., Bp's MS. 57, *passim*; Salisbury, Dioc. Regy., Ep. Lib. Act., Box 17, 1662–9 and 1671–80 (4 Sept. 1668, 8 June 1669, 8 Oct. 1678).

Since visitation procedure was essentially judicial, its effective revival had also to await the restoration of coercive powers, but until the political settlement of the church had been completed, the liturgy settled and uniformity thereby defined, visitations probably could not serve a very useful purpose. The archdeacon of Berks seems to have visited in August and September 1661,[1] but archidiaconal visitations in 1661 or early 1662 do not appear to have been universal; none has so far been traced in Sarum, Wilts or Lincoln archdeaconries.[2] The episcopal visitations of the summer and autumn of 1662, even if they were not the first to be held after the Interregnum, were unquestionably the most important, and it is their records which show that in all essentials the pre-war system was faithfully re-established.[3] The usual practice in most dioceses was that the bishop should visit every three years, the archdeacon yearly or twice a year.[4] The pattern in many peculiars was similar, in that some authority generally visited them yearly and often a superior jurisdiction at longer intervals, but here custom varied widely.[5] In Exeter diocese,[6] and perhaps from time to time at Salisbury,[7] rural deans also held visitations in the seventeenth century; those at Exeter continued

[1] Bodl., MSS. Oxf. Archd. papers—Berks c. 101, fo. 6r.; c. 103, fo. 214r.; c. 107, fo. 4r. A visitation of some kind seems to have taken place in Exeter diocese, 1661–2, Cath. Libr., Presentments: Buckerell and Paignton parishes.

[2] The archdeacon of Lincoln, for example, seems first to have visited in Nov. 1662 (Lincoln, Vij/22).

[3] Well illustrated by Exeter, Dioc. Regy., Bp's MS. 218; Bodl., MSS. Oxf. Archd. papers—Berks c. 118, fo. 343r.; cf. c. 108, fo. 4r.; Lincoln, LC/5.

[4] E.g. in Salisbury diocese, archidiaconal visitations were annual; in Oxford diocese, two were held yearly, one by the archdeacon and one by his official or the bishop's chancellor (Bodl., MSS. Oxf. Archd. papers—Berks c. 100 and series; MS. Oxf. Archd. papers—Oxon c. 12, 13; cf. D. M. Barratt, *Oxford Diocesan Records* (Handlist, Bodleian Library)).

[5] E.g. at Salisbury the bishop visited his peculiars, e.g. St. Peter's and St. Mary's, Marlborough, yearly, and also in his triennial visitations (Salisbury, Dioc. Regy., Ep. Pres. in Vis., Marlborough deanery).

[6] Exeter, Rob. Libr., P.R. Bundle 169, 169[A]; Dioc. Regy., Bp's MSS. 1642, 1692.

[7] It seems probable that a report on churches in Marlborough deanery of 1672 is the work of the rural dean, Thomas Clerke, in whose hand it seems to be (Salisbury, Dioc. Regy., Box, Rural Dean's Return and Misc. Papers, 18 c.; cf. Subscription Book 1620–71, fos. 128v., 133v.; Ward's 'Notitia', iii. fo. 16); a presentment of 1662 refers to defects reported to the bishop by the 'deane ruler' (Ep. Pres. in Vis., 1662, Winsley: Avebury–

unbroken throughout the eighteenth century. In practice the frequency of visitations of one kind or another must have done much to offset the excessive size of some dioceses, for archidiaconal administration and, where it existed, a ruridecanal organization efficiently supplemented episcopal supervision. For this reason, the seriousness of the failure at the Restoration to introduce suffragan bishops [1] or to adjust diocesan boundaries can with regard to visitations perhaps be exaggerated, however much it may be deplored in other respects. Procedure in visitations does not seem to have aroused the same explicit criticisms as other aspects of episcopal administration, except of course where judicial action, taken on presentments and detections, was concerned. Convocation in 1640 and again in 1661–2 seriously considered standardizing the form of the visitation articles, which might vary from the twenty-five pages of detailed and fussy queries of Matthew Wren to the ten pages of relatively simple questions asked by George Morley or Seth Ward.[2] This scheme came to nothing, but by 1665 private discussions among a few bishops led to some revision in one version.[3]

In the circumstances of 1662, visitations had of course a special relevance. Enquiries into the titles and ordination of incumbents and curates, into the orthodoxy and licensing of schoolmasters, physicians, surgeons and midwives, into the condition of the church and churchyard, the manner of performing services, the conduct of churchwardens, and the conformity and morals of the laity were essential if the re-establishment of the Church of England was to be a reality. Of course there was much in the system which was inquisitorial and soon to seem out of date, but probably not more than in a Presbyterian organization which was, in 1660,

Potterne deaneries). W. Dansey, *Horae Decanicae Rurales* (2nd edn. 1844), ii. 475 ff.; cf. 495, suggested that Seth Ward, on translation from Exeter, revived the office, but it certainly existed in Henchman's episcopate (1660–3), cf. P.R.O., S.P. 29/43, fo. 197r.; 29/44, fo. 269r.

[1] Proposed in the Worcester House Declaration, 1660 (Cardwell, *Documentary Annals*, ii. 293–4).

[2] Bosher, *Restoration Settlement*, p. 231; E. Cardwell, *Synodalia* (1842), i. 407–8; ii. 623–4, 646 ff. For Wren's, Morley's and Ward's Articles, Bodl., B. 7. 9. Linc., nos. 19, 1, 25.

[3] Salisbury, Dioc. Regy., Ward's 'Notitia', i. fos. 52 ff.; Morley's revised Articles for 1668 and Ward's for 1674, Brit. Mus., 5155. c. 62; 5155. c. 72.

its only practical alternative.[1] Presentments for Exeter, Salisbury and Lincoln dioceses throw much light on the state of the parishes at this time.[2] Many churches, as the churchwardens of East Kennett in Wiltshire put it, were 'not dreast up & kept as formerly' but wanted 'trimming'; there was a dearth of surplices and of the necessary books and furnishings.[3] Some parishes, like Winterbourne Bassett, proudly reported that they had the 'Booke of Common Prayer newly established and set forth'; in others, like Uffington, it was still lacking.[4] At Minety, and conditions here were not unique, there was no chalice, flagon, plate or paten, no linen cloth or carpet for the communion table, and the pews were in disorder. Some parishioners showed a marked disinclination to conform, like Mary Caraway of Boyton, Wiltshire, who 'being exhorted to return to y^e^ Unity of y^e^ Church & to state those scruples (that had caused her dissent) to her own Parish Minister, who was able to give her satisfaction in her doubtings Replyed, if the blind lead y^e^ blind both will fall in the Ditch'.[5] The detection and punishment of nonconformity, whether of protestant dissenters or recusants, was of prime concern in this and later visitations. In the presentments of 1662 are many reports of those who absented themselves from church or the Holy Communion, or refused to have their children baptised, and the same business took up much of the courts' time. In 1663 in Exeter diocese at least 144 persons were cited into the vicar-general's consistory court for nonconformity of some kind, of whom eighty-five were excommunicated and some later probably imprisoned on a writ *de excommunicato capiendo*.[6]

The presentments for 1662 show how impossible would be any generalization on the speed with which uniformity was again re-established in the parishes. Where the incumbent had survived sequestration, or had returned to his former cure, or a zealous

[1] Bosher, *op. cit.*, cc. iv, v.

[2] Exeter, Cath. Libr., Presentments; Bp's MSS. 765, 765^A^; Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1662; Lincoln, Vij/22; *Episcopal Visitation Book for the Archdeaconry of Buckingham, 1662*, ed. E. R. C. Brinkworth (Bucks. Rec. Soc., vii, 1947).

[3] Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1662, Avebury–Potterne deaneries, and *passim*.

[4] *Ibid.*, Avebury–Potterne; Abingdon–Wallingford deaneries.

[5] *Ibid.*, Malmesbury deanery, fo. 56r.; Wylye–Wilton deaneries.

[6] Exeter, Cath. Libr., Bp's MS. 765.

Anglican had been instituted soon after the Restoration, progress was often rapid; where a 'Bartholomew ejection' took place in the late summer or autumn of 1662 it was inevitably delayed.[1] Although all who had not by 24 August 1662 subscribed to the Act of Uniformity and publicly assented to the Prayer Book were legally supposed to be deprived of their preferments,[2] administrative difficulties obviously made this impossible. Copies of the new book had not reached Dean Michael Honeywood in Huntingdonshire by 23 August, when he took legal steps to indemnify himself from the consequences of not having subscribed, and the records at Exeter show that subscriptions continued throughout September.[3] Naturally the vacancies could only slowly be filled. Of over eighty caused in this way in Exeter diocese only twenty-four were supplied by the end of 1662 and thirty-six more by the end of March 1663, while twenty parishes were still without incumbents six months after the deprivation orders went out.[4] These facts help to explain the contrast between the state of almost Laudian perfection at Bremhill, where the sequestered vicar, John Townson, had early been restored, and the disorder at Berwick St. John, whence the non-subscriber Compton South had just been ejected.[5]

Of the efficiency of the re-established visitation system in detecting faults and bringing about amendment it is difficult to form a judgment. Its mainspring was the churchwardens' presentments, perhaps supplemented by those of the incumbents,[6] and

[1] Cf. presentments for Hankerton (George Nevill, not sequestered) and Kingston Deverill (Thomas Aylesbury, inst. Jan. 1661) with that for Clyffe Pypard (Henry Blake, ejected 1662). Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1662, Malmesbury deanery, fo. 58r.; Wylye–Wilton and Avebury–Potterne deaneries; Reg. 1644–74; Matthews, *Calamy Revised*, pp. 178, 60. Cf. similar observations for Ely diocese, W. M. Palmer, *Episcopal Visitation Returns for Cambridgeshire* (1930), p. 1.

[2] 14 Car. II, c. 4.

[3] J. H. Srawley, *Michael Honeywood, Dean of Lincoln* (*1660–81*), (Lincoln Minster Pamphlets, No. 5. 1950), p. 7; Exeter, Dioc. Regy., Bp's MS. 151; D. Neal, *History of the Puritans* (rev. edn. 1837), iii. 113–14.

[4] Evidence drawn from Exeter, Dioc. Regy., Bp's MSS. 151, 24, 218, 906–7, and Cath. Libr., D. & C. MS. 3601; Matthews, *op. cit.*

[5] Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1662, Avebury–Potterne, Chalke–Amesbury deaneries; Matthews, *Walker Revised*, p. 381, and *Calamy Revised*, p. 452.

[6] Canon 113; cf. Wren's explicit directions for Ely diocese, Bodl., B. 7. 9. Linc., no. 19, p. 25.

how unreliable these might be may be seen by comparing reports on the same parishes from different sources, such as those made (though uncanonically) by the apparitors,[1] or as a result of personal inspection by the rural deans,[2] whose usefulness at Exeter and Salisbury at this time fully explains the attempts, both before and after the Revolution, to restore them in other dioceses.[3] After the Restoration the presentment of nonconformity engrossed increasingly more of the churchwardens' attentions, to the exclusion of other topics. It is probable, therefore, that the gradual growth of toleration after 1689, and the consequent lack of interest even in reporting dissent, had much to do with the decay of presentments and their development into a farcical routine whereby a report of *omnia bene* was almost automatic.[4] No one reading those for the eighteenth century can feel surprise that enterprising bishops like Wake and Gibson at Lincoln or Shute Barrington at Salisbury preferred to rely on separate questions to the incumbents to discover the state of their dioceses.[5]

Before the Civil War diocesan visitations had from time to time been supplemented by metropolitical visitations. That of Laud was but one of a series held by Parker, Whitgift and Abbott among others.[6] Archbishop Juxon certainly began to hold one

[1] E.g. presentments and apparitors' reports for Cricklade, Marlborough and Malmesbury deaneries, Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1683. Canon 138 forbade such informing, but it was still common: cf. Exeter, Cath. Libr., Bp's MS. 770 (5 Feb. 1666); *Episcopal Visitation Book for the Archdeaconry of Buckingham, 1662*, ed. Brinkworth, pp. viii, ix; Bodl., MS. Tanner 315, fo. 67r.

[2] Cf. for Marlborough deanery, the probable rural dean's report of 1672 with the presentments for 1671, e.g. for Wootton Rivers. Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1671; Box, Rural Dean's Return, 1672 and Misc. Papers, 18c. In Ely diocese in the 1660's the archdeacon or his official inspected churches personally (Palmer, *Episcopal Visitation Returns for Cambridgeshire*, pp. 125–6).

[3] Dansey, *Horae Decanicae Rurales*, ii. 347, 352–3, 431–2, 167 ff.

[4] Well illustrated by Bodl., MSS. Oxf. Archd. papers—Berks c. 100 and series; cf. for Lincoln, Kathleen Major, 'Lincoln Diocesan Records', *Trans. Roy. Hist. Soc.*, 4th Ser., xxii (1940), 63.

[5] *Speculum Dioeceseos Lincolniensis . . . 1705–23*, Part I, ed. R. E. G. Cole (Lincoln Rec. Soc., iv, 1913); Salisbury, Dioc. Regy., Ep. Lib. Vis. 1783.

[6] *Visitation Articles and Injunctions of the Period of the Reformation*, ed. W. H. Frere (Alcuin Club Collections, xiv–xvi, 1910), iii, 81–6; W. P. M. Kennedy, *Elizabethan Episcopal Administration* (*loc. cit.*, xxv–xxvii, 1924), iii. 153 ff., 247 ff., 250, 257; Cardwell, *Documentary Annals*, ii. 167 ff.

before his death in 1663. In 1660 he visited Canterbury cathedral and diocese, in 1662–3 Winchester cathedral and Chichester cathedral and diocese, and in the spring of 1663, Salisbury diocese.[1] Neither Sheldon nor Sancroft seems to have followed his example on a general scale, although Sancroft in 1686 visited Lincoln diocese and Salisbury cathedral, the latter at any rate as a result of a local controversy.[2] In spite of their importance, however, evidence about metropolitical visitations is not always easy to find, and further search may disclose more activity of this kind. If no general visitation was ever held by Sheldon or Sancroft, the fact is surprising, both in view of the fidelity with which the pre-war system was revived and of the value which in the circumstances such an enquiry would presumably have had.

Since the performance of confirmation did not involve the payment of any fees and hence no official records were kept, information about it is scanty, but what there is would suggest that it was still, in accordance with canon 60, carried out principally during visitations, although just after the Restoration not all bishops waited for this formal occasion.[3] In defence of the infrequency of its performance, it may be recalled that neither the revised Prayer Book [4] nor much current opinion [5] considered confirmation as an essential preparation for receiving Holy Communion. A list of confirmation candidates at Spreyton in Devonshire in 1665 is illuminatingly divided into 'those that have bene

[1] Lambeth, Juxon Reg., fos. 121r., 118r. (Canterbury and Chichester only recorded); *Documents relating to the history of the Cathedral Church of Winchester in the seventeenth century*, ed. W. R. W. Stephens and F. T. Madge (Hants Rec. Soc., xiv, 1897), pp. 106 ff.; inhibition (date rubbed), Bodl., MS. Oxf. Archd. papers—Berks c. 81, fo. 275r., cf. fos. 83–5v.; Salisbury, Dioc. Regy., Subdean, vol. 72 (9 June 1663); Dean, vol. 134 (26 March, 9 Apr., 13 and 27 May 1663).

[2] Lambeth, Sancroft Reg., ii. fos. 277 ff., 297 ff.; Lincoln, Red Book, fos. 321r. ff.; Bodl., MS. Tanner 143, fos. 159r., 207 ff. and *passim*. For events at Salisbury, W. H. Jones, *Salisbury* (1880), pp. 246 ff.; at Lincoln, Bodl., MS. Tanner 30, fo. 29r.

[3] Notes in Visitation Articles, e.g. Bodl., B. 7. 9. Linc.; *Mercurius Publicus*, 1661–2, No. 37, 11–18 Sept. 1662; *Correspondence of John Cosin*, ed. G. Ornsby (Surtees Soc., lii, lv, 1868, 1870), ii. 31.

[4] Bosher, *Restoration Settlement*, p. 247.

[5] Bodl., B. 7. 9. Linc., no. 9, p. 13; no. 25, p. 10; Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1668, Pewsey (Marlborough-Cricklade deaneries); Landford (Chalke–Amesbury deaneries); for a contrary opinion, Bodl., MS. Tanner 28, fo. 41r.

Catichized & are come to be confirmed' and 'those that have received the communion and are desirous of Confirmation'.[1] During the Restoration period more attention was probably paid to conscientious catechizing, about which Sheldon issued new instructions in 1673.[2] Most of the complaints about confirmation revealed by the churchwardens' presentments concern the difficulty of getting the children to the centres where the visitation was held,[3] and it is perhaps on such practical grounds rather than for any theological reasons that the wisdom of reviving the previous custom might be questioned. That confirmation should be 'at tymes frequent & in places opportune' was one of the suggestions of 1668 for administrative reform.[4]

The importance of the survival of the traditional parochial system during the Interregnum needs no emphasis. Two reforms affecting the parishes, one partly carried through and the other at least projected, had been then attempted; the augmentation of poor livings and the remodelling, where it seemed advisable, of parish boundaries.[5] The virtual abandonment of both at the Restoration had, in all probability, far-reaching consequences. Had parish boundaries been regarded as adaptable, the Church might have been better able to meet the challenge of Methodism and of the Industrial Revolution, while if some scheme had been devised to continue and extend the supplementation of inadequate livings many of the Church's problems might have been solved. Yet neither scheme was easy of fulfilment. It had been state authority which had diverted episcopal and capitular endowments to the improvement of poor livings, but at the Restoration this revenue was returned to its proper use. That either lay or clerical tithe-owners would surrender their impropriations for the augmenting of existing or the creation of new livings was in the highest degree unlikely. It is true that in the years following the Restoration a few new parishes, such as Falmouth,[6] were created, some poor town parishes were united,[7] and some livings, mostly

[1] Exeter, Rob. Libr., P.R. Bundle 345. [2] Wilkins, *Concilia*, iv. 593.

[3] E.g. Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1683, Upton Lovell; 1674, Codford St. Mary (Wylye–Wilton deaneries); Exeter, Rob. Libr., P.R. Bundle 345.

[4] Bodl., MS. Tanner 280, fo. 189r.

[5] Shaw, *History of the English Church*, ii. 202 ff.; 249 ff.

[6] 16 Car. II, c. 10; 22 & 23 Car. II, c. 12 (private acts).

[7] In accordance with 17 Car. II, c. 3.

those appropriated to ecclesiastical corporations, were augmented,[1] but these measures were palliatives only.

Some idea of the poverty of the parish clergy at this time may be had by analysing values given for livings in Salisbury diocese. Contemporaries obviously regarded £80 or £100 as the lowest adequate stipend for an incumbent; these sums are mentioned, for example, in the king's letter of 1660 about augmentations.[2] In Salisbury diocese 219 out of 372 livings for which a valuation exists were worth less than £100 p.a., and 153 less than £80 p.a.; i.e. about 58 per cent did not reach the higher alternative and 41 per cent were below the lower.[3] Moreover in some livings where the tithes were totally impropriated no certain sum was reserved for the curate, and sometimes the impropriator withheld payment altogether.[4] Comparable figures for other parts of the country would no doubt differ, but there is no reason to suppose that the values of Wiltshire and Berkshire livings were particularly low. Burnet considered that part of the abnormally large fines paid to bishops, deans and chapters and prebendaries at the Restoration should have been used to augment poor livings: 'if the half', he wrote, 'had been applied to the buying in of tithes or glebes for small vicarages, here a foundation had been laid down for a great and effectual reformation.'[5] A natural reticence about the actual sums received makes difficult any full statement of the Church's gains from this source; Burnet put it at a million and a half pounds.[6] The sums received were certainly large. At Salisbury, for example, Bishop Duppa received about £7,500 up

[1] E.g. Lincoln, D. & C. D/vij/1, no. 33; Exeter, Cath. Libr., D. & C. MSS. 3692–3, 2158–9. Legislation to improve appropriated livings was discussed in the Commons in 1660, but no act was passed (White Kennett, *The Case of Impropriations and of the Augmentation of Vicarages* (1704), pp. 249 ff.).

[2] Cardwell, *Documentary Annals*, ii. 272–5; cf. 17 Car. II, c. 3 and *Cal. S.P. Dom., 1661–2*, p. 18.

[3] Salisbury, Dioc. Regy., Ward's 'Notitia', iii, fos. 1–40; ii, fos. 19–20; iii, fos. 60–5, to some degree supplemented by 'Wastefelde's Collections'. Ward gives another valuation with the letter *D*, almost certainly for *Duppa*, prefixed, but as this is incomplete and may date from before the Civil War, the more comprehensive survey has been used.

[4] E.g. Lyneham, Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1674 (Avebury–Potterne deaneries).

[5] Burnet, *History*, i. 329–30; cf. Kennett, *op. cit.*, pp. 249–51.

[6] Burnet, *op. cit.*, p. 329.

to September 1660 when his translation took effect, and at Exeter, where the residentiaries shared a common fund, £20,972 was received between 1660 and 1663, of which £16,190 was distributed among the canons.[1] Certainly the failure to capitalize more than a relatively small proportion of the money thus accruing to a single generation of churchmen was, from the Church's point of view, unfortunate, whether the income which might have been raised had been used for the improvement of the endowments of the corporation concerned [2] or for the augmentation of poor livings. Yet the proposal was probably less feasible at the time than in retrospect it was to appear. Any such law, to be effective, would have had to have been passed very soon after the Restoration or have embodied inevitably unpopular retrospective provisions, since leasing by ecclesiastics in possession, such as Duppa, began again without delay. Moreover, the vested interests of those long deprived of their preferments, or of the reasonable prospects of such preferments, must have been very strong, and among such were the very men who helped to make the settlement. In some dioceses, too, the expenses of dilapidations were great and large capital sums were needed to meet them.[3]

To attribute pluralism, non-residence and the inadequate performance of clerical duties entirely or even largely to the poverty of so many livings would be, however, to disregard much of the evidence. Well-to-do clergy neglected their obligations as well as their poverty-stricken brothers,[4] and so far as additional preferments went it was probably more often the rich than the poor who became pluralists.[5] Some good livings were held together, like Hinton Waldrist and Welford, valued at £200 and £300 p.a.

[1] Salisbury, Dioc. Regy., Ward's 'Notitia', ii. fo. 4r.; Exeter, Cath. Libr., D. & C. MS. 3713.

[2] Cf. complaints about the poverty of endowments at Exeter, Cath. Libr., 3499, fo. 243r.; Bodl., Add. MS. C. 305, fo. 194v.

[3] Cf. Clarendon's comments, *Continuation of the Life of Edward Earl of Clarendon* (1843), pp. 1047–8; Exeter, Cath. Libr., D. & C. MS. 3499, fo. 243r. summarizes expenses at Exeter met by the Chapter. For similar statements for other dioceses, Bodl., MS. Tanner 147, fos. 11r., 79r., 229r.

[4] E.g. John Townson, vicar of Bremhill (value *c.* £300) and Nathaniel Massey, vicar of Stratton St. Margaret (value £30–40); Salisbury, Dioc. Regy., Ep. Lib. Dep., Box 12, 1670–80; Citations, Bundle 1682–4, 20 Nov. 1682; Ward's 'Notitia', iii, fos. 24, 17.

[5] As in the eighteenth century (Sykes, *Church and State*, pp. 147 ff.).

respectively; others, even when held in plurality or as united benefices, raised wretched sums, such as Hardenhuish and Sutton Benger, worth about £70 p.a. together.[1] To generalize as to what extent livings held in plurality, or together with another preferment, were less well served than where the incumbent had a more limited responsibility, is, of course, impossible. Where an adequate curate was employed, as at Childrey, of which the orientalist Edward Pococke, also a canon of Christ Church, was the rector, conditions might be perfectly satisfactory.[2] Complaints were made about the pluralist Samuel Rich at Hurley but so were they about William Broad of Marcham who had only one benefice for which to care.[3] Residence of the clergy was one of the subjects on which new canons were contemplated in 1661,[4] and there would have been much to have been said for the introduction of a new discipline before the old system was too firmly re-established. Legislation was discussed in 1663, 1664, 1667 and 1678 as well as in the draft reform schemes of 1668. These advocated the strict limitation of the number of preferments which might be held together, but no change was brought about.[5]

The ecclesiastical records of the Restoration show, then, how exactly in almost every way the pre-Civil War administration was revived in the years 1660 to 1663, and how faithfully the Church of England, in all its minor ramifications as well as in the central political sphere, was re-established. While at Whitehall and Westminster the political struggle against the Presbyterians was being played out, at diocesan level the revival of ecclesiastical administration was the result of piecemeal and local effort. In default of immediate official directions, it was inevitable that the old system, with its weaknesses as well as its strength, would be restored, and with it all the vested interests which made change so difficult. That an opportunity for at least some measure of reform was lost at this time seems undeniable. For the failure to make use of it

[1] Salisbury, Dioc. Regy., Ward's 'Notitia', iii, fos. 34, 38, 23, 21.

[2] Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1662, 1671, 1674, 1683 (Abingdon–Wallingford deaneries); Bodl., MS. Oxf. Archd. papers—Berks c. 110, fos. 231 ff.; *D.N.B.*

[3] Bodl., MS. Tanner 39, fo. 105v.; Salisbury, Dioc. Regy., Ep. Pres. in Vis., 1671, Abingdon–Wallingford deaneries.

[4] Bosher, *Restoration Settlement*, p. 231.

[5] *L.J.* xi. 567, 612, 616; xiii. 180–1, 187; Bodl., MSS. Tanner 447, fos. 127–8; 315, fo. 100r.; 280, fos. 190–1.

something must probably be attributed to the political circumstances which made inexpedient the summoning of Convocation until as late as May 1661[1]; and something, perhaps, to the accident which placed a venerable figurehead, in the person of Juxon, at the nominal direction of affairs when a vigorous and able administrator might have seen a way of profiting from the situation without doing violence to cherished traditions or exciting new fears of innovation.[2] Of the churchmen who, as Dr. Bosher has shown, were so largely responsible for the general resettlement of the church, Sheldon, Morley and (to a lesser degree) Earle, none in 1660 had any episcopal experience.[3] The surviving bishops, who might have given valuable advice on the administrative reforms both desirable and feasible at this time, such as Warner, Wren and Skinner, were politically out of favour and in any case had already shown that they were not the stuff of which innovators are made.[4] Probably, too, the Interregnum did not last quite long enough; had continuity really been broken, a more thorough revision of the organization would no doubt have been easier. In the years following the Restoration the revived system worked in many ways well, and if some aspects of it, such as its inquisitorial powers with regard to morals, were soon to grow anachronistic, they may perhaps be regarded as of a piece with the remnants of paternalism in secular government which survived the Restoration, but were to perish or lose their significance at or soon after the Revolution. So far as the Church was concerned, the administrative system as re-established at the Restoration was to remain structurally unchanged until the nineteenth century, but much of the spirit of conviction which still animated it when it was revived, and made tolerable its shortcomings, was gradually to disappear. In ecclesiastical administration as well as in theology, it was rather the change in mental climate in the last years of the seventeenth century than the cataclysm in the middle of it which divided the Church of Whitgift and Laud from that of Herring and Hoadly.

[1] Bosher, *op. cit.*, pp. 213–15. [2] *Ibid.*, p. 182.

[3] *Ibid.*, pp. 159, 184 and *passim*; Sheldon and Morley were consecrated in Oct. 1660, Earle in 1662.

[4] H. R. Trevor-Roper, 'The Restoration of the Church, 1660', *History Today*, ii (1952), 542; Bosher, *op. cit.*, pp. 182–3.

EMIGRATION AND THE STATE, 1833–55: AN ESSAY IN ADMINISTRATIVE HISTORY

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THIS paper is concerned with an obscure and long defunct branch of the administration, which was instituted in 1833 and reached its climax by the middle 'fifties. The branch, which had not even a distinctive name, consisted at most of between twenty and thirty executive members, almost all half-pay naval officers, who were at first directly controlled by the colonial office, and, after 1840, subject immediately to the Colonial Land and Emigration Commission.[1] Though the corps of emigration officers, or agents, as they were indifferently called, was established in the 1830's, it by no means belonged to a new race of administrators. It did not originate in political agitation, or Benthamic or parliamentary inquiry. Its purpose and function were scarcely defined; certainly it was innocent of doctrinaire intention. No celebrated public servant, except, indirectly, James Stephen, was concerned with its workings; no considerable attention was ever drawn upon its officers. Indeed, by and large, the British public was unaffected by, and probably ignorant of, its existence.

Yet it is this very obscurity, want of novelty and absence of theory which give interest to the subject. For the history of the corps provides an example of what we might call 'pure' administrative change—change free from assumptions about the method of government, free from powerful outside pressures, free, we

[1] F. H. Hitchens' *The Colonial Land and Emigration Commission* (Philadelphia, 1931) provides a valuable introduction to the work of this body. At first it was mainly concerned with the sale of colonial lands and the management of assisted emigration to the Australian colonies; but in time its other functions, the protection of voluntary emigration and the preparation and execution of passenger legislation, absorbed much of its attention. This paper is concerned only with voluntary emigration to North America, which forms a separate problem.

might even add, from men of extraordinary penetration or intelligence. What is significant is that even such unpromising material tended to develop in time into what is often termed a Benthamic type of administration, one characterized by centralization, the empirical method and the use of expert knowledge. This outcome may tell us something about the general revolution in administration during the nineteenth century: perhaps, that we can easily exaggerate the part played by specific personalities or doctrines in bringing about the change; perhaps, that we do not allow enough for the mere pressure of new circumstances in a new environment, for the mere existence of unprecedented problems, arising from an unprecedented increase and dislocation of population, at a time when a new knowledge of social phenomena could be gathered, and the state of public sentiment, and the sensitivity of governments to that sentiment, were changing rapidly. There is another sense in which this study may act as a corrective, however humble. It is largely concerned with the work of executive officers; and it may well be that the contribution of such men to administrative change, whether by their interpretations of official policy or their selections of information and advice, has been dangerously neglected.

The corps of emigration officers originated in complaints about the passenger trade, and the enforcement of the Passenger Act of 1828.[1] Emigration, particularly Irish emigration which took place for the most part from Liverpool, had increased prodigiously since 1815. The annual average had risen from some 25,000 in the years between 1815 and 1820 to over 70,000 in the early 'thirties. This astonishing growth had brought into being a regular passenger business, again largely concentrated at Liverpool, but everywhere composed, at least in part, of fraudulent and unscrupulous brokers; and such a development, together with the new predominance of poor, illiterate Irish peasants amongst the emigrants, led in turn to the passage of protective legislation in 1828. This Passenger Act, occasioned by the sufferings of the emigrants during the 1827 season when the trade was completely unregulated, was the first to be inspired by unadulterated humanitarianism [2]; and, deliberately aiming at the barest minimum of

[1] 9 Geo. IV c. 21.

[2] The earlier passenger acts, the last of which had been repealed in 1827

regulation, it was crude and elementary. It merely limited the numbers who might be carried to three for every four tons burthen, prescribed a minimum height of $5\frac{1}{2}$ feet between decks, and required vessels to have aboard 50 gallons of water and 50 lb. of breadstuffs for every person making the voyage.[1] But even these few regulations were indifferently enforced, for the execution of the statute was left to customs officers, who had not the time, knowledge or interest to see that it was carried out.[2]

It was in the course of complaints about this last neglect that a special superintendence for emigration was first suggested. In 1831 it was proposed independently by the British consul at New York and a philanthropist, Rowland Edwards, who described from first-hand experience the miseries to which Liverpool emigrants were subjected.[3] Edwards's plea was renewed in the following year by the 'respectable citizens' and mayor of Liverpool[4]; and when, at the beginning of 1833, the latter made a specific appeal for a naval officer, the government at last succumbed. 'Emigration is now becoming so extensive and so systematic', Stanley told Althorp,

> that it is very desirable to afford any facilities for it on the part of the Govt., and to check, as far as we can, the frauds which are practised . . . The experiment might be tried at Liverpool, and if found to answer, might be applied to Bristol, Dublin &c . . . The expense would be very trifling—a Lieut. of the Navy . . . would perform the service for the difference between his half and full pay.[5]

Within a fortnight, a Lieut. Low was posted to Liverpool and the corps of emigration officers had begun.

in the course of a general dismantling of restraints on trade, had been partly mercantilist in intention. Cf. W. F. Adams, *Ireland and Irish Emigration to the New World from 1815 to the Famine* (New Haven, 1932), pp. 254 ff.

[1] The food was provided and paid for by the passengers themselves.

[2] Down to 1831, no inspections whatever were carried out at Belfast, P.R.O., C.O. 384/27, 3567 New Brunswick, 19 Aug. 1831. The Commissioners of Customs believed that elsewhere in Ireland the inspections were satisfactory, but the first reports of the emigration officers showed that this complacency was quite unwarranted.

[3] C.O. 384/28, unmarked, 25 June 1831, and 3238 Emigration, 8 Nov. 1831.

[4] C.O. 384/30, 2375 North America, 19 June 1832, and 2844 Canada, 21 July 1832.

[5] C.O. 384/33, letter from the mayor of Liverpool to Goderich, 4 Jan. 1833, and endorsements.

As might be expected from such an *ad hoc* beginning, neither the purpose of the corps nor the officer's duties were well defined. According to the official instruction, the officer was to look to the seaworthiness of vessels and the enforcement of the Passenger Act; to receive money for and help in securing passages; to direct emigrants to 'respectable' lodgings; and to work with the local magistrates in securing rapid and summary justice.[1] Clearly the office was ill-considered. No new legislation had been contemplated, and the 1828 Act was not framed for such a service.[2] The selection of vessels and lodgings for private individuals placed the officer in the dangerous situation of discriminating between ordinary merchants in competitive trades; and to burden him with working rough justice, without any promise to stand over his extra-legal actions, was ungenerous. There was, moreover, a certain duality in the idea of the office. The officer appears to have been expected, though never specifically instructed, to be the agent of a species of economic policy towards emigration, such as the encouragement of landlord undertakings, or the diversion of emigration to British colonies. This was not only unsatisfactory in being both vague and tacit. It was also difficult to reconcile with the impartiality towards all interests which the main duty of enforcing protective legislative should have demanded.

There is further evidence of the survival of older administrative notions and practices in the relationship between local and central authority. The Liverpool council furnished Low with an office and a supplementary emolument,[3] and he always worked in the closest co-operation with the mayor and magistrates. In fact, when the corps was being extended in 1834, it was hoped that the other ports would follow Liverpool's example, and though it was

[1] C.O. 384/39, unmarked memorandum, 4 Mar. 1833. See also Hitchens, *op. cit.*, p. 17. The officer was also advised to answer no letters but those from clergymen, parish officers, magistrates and landlords who wished to assist their tenants to emigrate.

[2] E.g. Customs officers could still, and at some ports did, clear vessels which had not been inspected and passed by the emigration officer.

[3] This was, in Low's last years of office, the subject of some dispute. In the end it was left an open question whether the payment, which was £50 *per annum*, was *ex gratia* for Low's public services, or in fulfilment of a promise made by the mayor, C.O. 384/47, 1373 Emigration, 6 June 1838; C.O. 384/52, 474 Emigration, 8 Mar. 1839; C.O. 386/23, pp. 5–7, 203–4, 23 Apr. and 6 July 1839. Elliot informed the council in 1839 that no other officer had this privilege, and it was not continued for Low's successor.

found impossible to insist on such conditions, several of the ports provided offices or financial and other help.[1] Limerick, for example, granted £25 for an outfit for its officer, whom it wished to be made responsible to the corporation.[2] Some of the new appointments were redolent of the *ancien régime*. Sligo, to take but one instance, appears to have been given an officer mainly because a 'suitable' candidate was available, Lieut. Shuttleworth being proposed, partly because he was a native of the town, partly 'out of compliment to Mr. Martin, the member for the borough', to whom the government owed much.[3]

The beginnings of the corps, then, suggest that in many ways it belonged to what is regarded as an 'eighteenth-century' rather than a 'nineteenth-century' mode of government. The very men selected in such a personal, informal way had no particular training for the task, except presumably a knowledge of ships and a habit of command.[4] They were an *ad hoc* body, set free to work with very imprecise directions, no supervision and a vague quasi-discretion to fulfil an economic policy. For some time and in some respects they were regarded more as state auxiliaries called in to assist in a local difficulty than as state officials proper. All this was soon changed by the rub and wear of experience. As the regulation of emigration was found to involve great trouble and expense, the local authority insisted that such business belonged exclusively to the central power, despite the intermittent efforts

[1] Hitchens, *op. cit.*, pp. 16–17. The mayor of Cork promised an office, and every 'countenance and assistance', C.O. 384/36, 559 Emigration, 10 Feb. 1834.

[2] C.O. 384/35, 1985 Emigration, 6 May 1834; C.O. 384/36, 2791 Emigration, 5 July 1834.

[3] C.O. 384/39, 124 Emigration, 4 Apr. 1835. The same air of patronage enveloped the Londonderry appointment, though here there were two candidates in the field. The merchants and shippers, backed by Sir Robert Ferguson, asked for a Lieut. Ramsay, who commanded a river steamer at the port, while the mayor and Dawson, the secretary to the admiralty, pressed the claims of Frederick Hamilton, 'who has been most serviceable in supporting the Constitutional cause'. The colonial secretary observed that he himself had no candidate, and, in the end, it was Ramsay who was selected, C.O. 384/36, 2107 and 4475 Emigration, 13 May and 15 Nov. 1834; C.O. 384/39, 5 and 183 Emigration, 20 Mar. and 15 Apr. 1835; C.O. 386/20, pp. 79–82, 135–6, 22 Sept. and 2 Oct. 1837.

[4] This 'amateur' element was emphasized, perhaps, by their being paid, not a flat salary, but the difference between half and full naval pay.

of the latter to recreate a sense of local responsibility. As the officers discovered the extent and urgency of the problem of protecting emigrants, this absorbed almost all their energies; and the idea that they should pursue a sort of government policy quickly, though not quite completely, died away. As the evils of informality and want of direction were exposed, it became more and more certain that some body of responsible superiors would have to be established. Thus clearly and rapidly did the pressure of work and the findings of the executive mark out the direction which administration had to take.

The officers early found that abuses could not be overcome by the existing means of government. The more experience they acquired the more intractable, yet intolerable, the passenger trade appeared, and the more inadequate the Passenger Act. Most of the vessels were much too small, three hundred tons being about the average, and very many were in disrepair, unseaworthy or recklessly stowed.[1] All were short of water and provisions; almost all lacked kitchens, sanitation or adequate lifeboats. Even the legal quota of passengers produced overcrowding. The ordinary Liverpool vessel allowed each passenger only some six square feet of deck space in a living-room crowded with luggage and sea stock and often lacking a partition to divide it from the cargo.[2] What a hundred passengers endured on a voyage of six weeks or more, packed into a hold 600 square feet in area and $5\frac{1}{2}$ feet high, sleeping four in a narrow berth, without sanitation or ovens and even without air or light when battened down in bad weather, is terrible to conjecture.

Yet what could the officer do? Apart from the few matters which the statute, often uncertainly, covered—and my imaginary vessel might have been within the law—he had only what he called 'threats' or 'remonstrances' to rely on. However effective

[1] At this time scarcely any vessels were specifically designed for passengers. The great majority in the trade were timber, cotton and potash ships, which carried emigrants for the outward voyage as an alternative to sailing in ballast.

[2] This description of the Liverpool trade, and the subsequent account of Low's early activity in Liverpool, is based (unless otherwise stated) on his eighteen reports to the colonial office contained in C.O. 384/32, covering the period May–Nov. 1833, and his twelve reports contained in C.O. 384/35, covering the period Jan.–Nov. 1834; and the endorsements upon these reports.

in some cases, these were unsatisfactory as a procedure. They led to bad relations with the trade. Inevitably, only the better sort of brokers conformed, while the worse took their stand defiantly upon the law. Some officers did exercise another power: they refused to clear vessels which they deemed to be unseaworthy. But this was a two-edged weapon. Its legality was doubtful; the vague discretion possibly implied in the 1828 Act[1] would scarcely have sustained its wielder in a court of law. Moreover, when vessels were detained, passengers had to eat into their little sea stock, and an officer dared not delay a ship beyond the point where they risked starvation. If the broker called his bluff, he had eventually to let the vessel sail, however dangerous her condition. In short, early experience showed not only that officers could do relatively little to improve the trade, but also that what they did achieve depended largely, and most unfairly, not upon their legitimate powers or the provisions of the statute, but upon the brokers' ignorance of the law and their own capacity to intimidate. Lieut. Miller of Belfast, for instance, frankly admitted after a year in office that all his success was due to a belief current in the city that he either had, or soon would have, the widest summary powers.[2] It was no coincidence that some of the first requests from officers were for permission to wear naval uniform, so that more 'attention' might be paid to their remonstrances,[3] or that Low's first demand, for a boat, should have been couched in these terms: it was 'absolutely essential . . . the very sight of a King's boat commands respect and ensures obedience'. Nor was it a coincidence that most officers, soon after appointment, drew up proposals for new passenger legislation.

Low, for example, began by recommending the extension of the existing requirements, and the introduction of many others, such as segregation of the sexes and the provision of kitchens and adequate lifeboats. To enforce these requirements, new and old, he proposed that officers should be given wide and certain discretions over stowage, seaworthiness and fittings, and the quantity and quality of foodstuffs, and that passenger lists should be sent on ahead to the ports of arrival so that the colonial officers or British consul (as the case might be) could check the emigrants

[1] 9 Geo IV c. 21, sec. 7.
[2] C.O. 384/35, 2151 Emigration, 19 May 1834.
[3] *Ibid.*, 56 and 129 Emigration, 1 Jan. and 20 June 1835.

as they disembarked.[1] Lastly, he dealt with pre-embarkation impositions, which were often ruinous to emigrants, as most did not come within the magistrates' jurisdiction, and the alternative remedy, the ordinary processes of common law, was quite inaccessible to intending travellers. Low suggested some special summary process which could be despatched immediately before two J.P.s, and he also proposed that brokers should be compelled to furnish emigrants with all provisions for the voyage,[2] which would not only guarantee passengers a minimum diet, where at present many went hungry or even starved, but also strike at the delays in sailing which nullified the power to refuse a clearance.

Low's implied criticism of the existing system was very just. The requirements of the law were absurdly few, too unexacting, and amateur in drafting and conception; neither the pre-embarkation difficulties nor machinery for enforcing the statute had ever been considered. Almost all his own recommendations were sooner or later adopted, and, in every field he touched, he adumbrated a type of regulation which was to prove successful. What is interesting here is that Low was not a solitary genius: several of the other officers diagnosed the same weaknesses and proposed the same improvements.[3] This establishes clearly the unexpected change wrought in emigrant protection by the mere appointment of men who would gain a first-hand knowledge of the trade and have a professional interest in its amendment. The two common, if opposite, misconceptions about remedial legislation—that every desirable requirement should be made statutory, or that every requirement, however desirable, must be postponed if it would hinder trade or reduce the volume of emigration—were swept away. The officers' reports made it clear that almost every

[1] Low also drew up complicated regulations for maintaining a quasi-military order and discipline amongst emigrants at sea. It is interesting to note that an order-in-council, very much on these lines, was issued in 1849; see C.O. 384/81, 670 Emigration, 3 Apr. 1848. Since no authority to enforce it aboard ship was set up, it was altogether ineffective, *Report Select Committee on Passenger Acts*. H.C. 632, pp. xxvi–xxvii (1851), XIX.

[2] This would, of course, raise the price of passages, but Low estimated that, since brokers could buy food in bulk, the extra cost to passengers would be only thirty shillings. If this were so, emigrants would lose little financially.

[3] In fact, Lieut. Friend of Cork raised the important problems of epidemics and immorality at sea, which Low had not discussed, C.O. 384/38, 56 Emigration, 1 Jan. 1835.

projected reform involved difficulties which experience alone would reveal, and for which experience alone could provide a solution; and, conversely, experience demonstrated that there were many matters which could not be left in their current state, whatever the theoretical, economic or other objections to interference. This, in turn, produced a change from a static to a dynamic concept of protection. As suggested reforms were postponed, or, when made statutory, failed to achieve their object, there grew up the idea of progressive improvement, or tightening the legislative screw ring by ring. By 1842, this empiricism had come to be adopted almost as a conscious policy, and a revolution in administrative method was accomplished.

The appointment of executive officers revealed a second great difficulty. Within a few weeks of his arrival, Low reported that a very cruel and complex system of deception was at work in Liverpool. Emigrants were being robbed of their deposits; or despatched on vessels, or to ports, other than those contracted for; or despoiled in their lodgings, or charged extortionate prices for their provisions, or sold foul bread. If by chance they learned that they had a legal remedy, they were usually intimidated or bribed to return the contract ticket.[1] With the support of the mayor's court, Low at once began a vigorous attack upon these abuses. In his first two months of office he undertook twenty prosecutions; and soon after, with a view to example, he sought and obtained two heavy sentences of imprisonment. At the same time he persuaded the mayor to remonstrate officially with certain brokers, for he had by now, to his own satisfaction, divided the Liverpool trade into sheep and goats. This division was an important feature of Low's policy. He freely admitted that he advised all emigrants he could lay his hands on (and they were many, for he himself met several of the Irish steamers, and instructed the police to direct all passengers to his office) to avoid certain brokers and lodging-houses and to deal with others. It is clear,

[1] The same abuses were found to exist in the Irish ports, although of course on a smaller scale, C.O. 384/35, 2151, 2241, 2689, 3608 and 40 Emigration, 19 and 24 May, 30 June, 8 Sept. and 31 Dec. 1834; C.O. 384/36, 4475 Emigration, 17 Nov. 1834. For the abuses in Cork in later years, see *Report Select Committee on Colonization from Ireland.* ICmd. 7371, p. 243. H.C. (1847), VI; *First Report Select Committee on Colonization from Ireland.* H.C. 415, p. 181 (1847–8), XVII; *Second Report Select Committee on Emigrant Ships.* H.C. 349, pp. 80–2 (1854), XIII.

moreover, that he pursued those whom he regarded as malefactors with the most jealous supervision and interference.

Low was dealing with rough, unscrupulous men, and considering the weakness of his position he was extraordinarily successful. Apart from his actual prosecutions, the very threat of the mayor's court, once it was known that the local authorities, whom he consulted before each prosecution,[1] would back him to the last, was often enough to win substantial justice—compensation, or the passages contracted for, or a return of fares. Nonetheless his procedure was very questionable. The widespread complaints of despotism, arbitrariness, and collusion between mayor, magistrates and emigration officer[2] were far from groundless. Low's partisan attitude led to a very uneven enforcement of the statute, and to what amounted to the use of an official position to divert business towards particular merchants. It is true that Low had personal failings which contributed to his deplorable behaviour. But this does not alter the fact that his behaviour was in accordance with his conditions of appointment. The memorandum setting out his duties had obliged him to secure substantial justice, and more or less charged him with removing as much of the trade as possible from the hands of 'disreputable' merchants. Such instructions, in the current state of the law, virtually invited exorbitance, partiality and truculence, and the consequent ill will of at least the unfavoured sections of the trade.

Low was soon reprimanded. His prosecutions had involved the maintenance of the emigrants who were being used as witnesses, and the treasury, when the first year's bill of expenses was presented, strongly condemned this practice.[3] Moreover, the stream of complaints from brokers, some backed by persons of standing,[4] could not be ignored. The climax came with a dispute between Low and a bankrupt broker, Walkinshaw, who blamed Low's

[1] Low justified this upon the ground that unsuccessful prosecutions 'tended to weaken' his authority.

[2] *The Times*, 8 July 1834; undated cutting from the *Liverpool Mercury* contained in C.O. 384/33; A Passage Broker, *Letter to Lieutenant Lowe, R.N., the government agent at the Port of Liverpool; with supplementary remarks* (Liverpool, 1838); etc.

[3] C.O. 384/36, 2041 Emigration, 14 May 1834.

[4] C.O. 384/32, 4703 and 5002 Emigration, 19 Sept. and 11 Oct. 1833; C.O. 384/35, 2253 and 2254 Emigration, 30 May 1834; etc.

persecution for his misfortune.[1] The affair received much publicity. The local newspapers took sides in the quarrel, and charge and counter-charge was published even in the national press. Stung by Walkinshaw's unmeasured abuse, Low asked all other emigration officers and port authorities to denounce him publicly,[2] and urged the government to support some penniless emigrants in a legal action against Walkinshaw, with the object of 'breaking' him, once for all. At this point Stephen intervened decisively. He insisted that Walkinshaw be treated courteously, not from respect for the man himself, 'but from respect for "the Public" (that irritable and sensitive abstraction) of which he is a member and we are the servants'. Proclaiming his character to the world at large would merely raise Walkinshaw from 'an obscure swindler into the dignified position of a man oppressed by persons in high place and power', and thereby arouse the 'the whole radical press'. Finally, Stephen laid down that emigration officers should enforce the Passenger Act as they found it, and not 'redress the wrongs, which in the process of their mutual dealings respecting emigration, individuals may inflict on each other'.[3] Not only were Low's proposals turned down: he himself was censured for excess of zeal and ordered not to assume powers which he did not possess and not to discriminate between the brokers. Doubtless Stephen was constitutionally correct. But we must not forget that the exorbitant and doubtful duties in question had been imposed on officers in order to secure the main object for which the corps was instituted, the protection of emigrants; and this object remained unfulfilled. Stephen's advice, essentially a lawyer's, was to some extent irrelevant to the larger issue. His basic assumption was that the state and its officers must be not only impartial in deciding upon the facts, and in their dealings with individuals of the same class, but also neutral as between all classes of persons whatsoever. But every passenger act and the

[1] E. Walkinshaw, *A Vindication of Edward Walkinshaw* (Liverpool, 1834). For Low's earlier actions against Walkinshaw, see C.O. 384/33, 2937 Emigration, 10 June 1833. C.O. 384/35, 47 and 585 Emigration, 17 June 1833 and 15 Feb. 1834.

[2] 'Caution all emigrants, applying to you, who may be about to proceed to Liverpool, against being imposed on by that person', copy of Low's letter published in the *Limerick Times*, 3 July 1834. See also C.O. 384/35, 2535 Emigration, 21 June 1834.

[3] C.O. 384/35, 3605 Emigration, 8 Sept. 1834, Stephen's endorsement.

very creation of the corps, not to say a multitude of similar undertakings of the same period, were based upon the opposite principle that all persons were not equal in capacity and that some required a peculiar protection from the state.

If the policy adopted in the Walkinshaw case had been logically extended and universally applied, emigrants would have gained little from the existence of the corps. But it was not extended or applied. None of the other officers was informed of the decision, and they blithely continued to report successes obtained through 'remonstrances' or the assumption of whatever discretions went unchallenged. Indeed, Low himself soon resumed reports in the same strain. The explanation of all this lies in the absence of superintendence. No person or department in the colonial office was directly and specificially responsible for the officers; and unless a scandal arose or an expensive course of conduct were proposed they were left entirely to their own devices. We have already seen in what a weak and uncertain position this placed the officer. Equally important was the waste of potential reforming energy. The first findings of the officers made it clear that a new statute was immediately needed. Apart from fresh requirements to be imposed, their own functions should have been clarified at once and their discretions legalized and extended. It is true that an amending act was passed in 1835.[1] But this was a feeble and stopgap measure, which held to the 'minimum requirements' line of 1828 and profited little from the advice and first-hand knowledge of the trade which the new officers had provided. Indeed, no attempt was made to obtain, let alone utilize, this knowledge systematically. Officers were not required to furnish reports and their opinions were scarcely ever canvassed. The value of the executive in the field went quite unrealized.

The first forward step was taken when an Agent-General for Emigration, T. F. Elliot, former secretary to the Canada Commissioners, was appointed in 1837. Elliot immediately undertook a tour of the main stations. One of his objects was to co-ordinate the practice of the corps, which had developed almost unchecked in various directions. Another was the collection and correlation of data for a new passenger bill. It is hard to say how far the first

[1] 5 & 6 Will. IV c. 56. The only valuable provision was the reduction of the legal quota of passengers to three for every five tons, instead of three for every four.

was achieved, but Elliot's liaison must have enabled the individual officers to share, to a considerable extent, in the general experience. Though no new statute came immediately, the process of sifting opinions and criticisms, however informally, had begun, and this was to issue in the vital reform act of 1842. Most important of all, Elliot was a responsible superior. At last it was someone's business to defend the officers publicly, to define their functions and to set out the limits of their office. This was to be of particular value when severe Canadian criticisms of the corps were published with the Durham Report in 1839.[1] The Canadians had ever been foremost in deploring the condition of the emigrant trade, and they had expected wonders when the corps was instituted.[2] Instead, so they complained, there was little if any improvement, and for this they blamed the officers' incompetence and neglect. Elliot made it clear that the evils of the voyage lay outside the control of the executive. If emigration were managed by the state, or the executive had unlimited powers and money at its command, there would be reason to complain. But so long as emigration was voluntary, unsupervised at sea and largely unprotected by statute, the officers could do nothing more than they did.[3] To Canadian complaints that the inspections, especially of the numbers aboard, were faulty, Elliot replied that nothing could prevent vessels which had been cleared from embarking passengers along the coast; the only remedy for this would be the counter-check at the port of arrival.[4] Thus two points of prime importance were established publicly: first, the relative impotence of officers under the current statute and arrangements, and, second, that emigrant protection must always depend, to some extent, upon a second line of defence, complementary inspections in North America. This greatly cleared the confusion which had surrounded the corps, and marked out both its inevitable limitations and the direction which reform should take.

The advance begun under Elliot's agency was greatly extended when the Colonial Land and Emigration Commission was established in 1840. The new body, which included Elliot himself, had

[1] *Durham Report*, Appendix B, evidence of Skey, Morrin and Poole.
[2] C.O. 384/35, 1823 Lower Canada, 30 May 1834.
[3] C.O. 384/52, 47 Canada, 5 Jan. 1839.
[4] *Ibid.*, 509 and 778 Emigration, 30 Jan.–2 Feb. and 20 Apr. 1839.

powers and standing which the Agent-General could never command, and from the start it professed its faith in its executive. To immediate Canadian demands that the corps be made more efficient, the commissioners replied that what was needed was not better officers but more discretions and a better statute for the officers to enforce.[1] In earnest of this, they prepared a new bill at once; and not merely did they rely upon the recommendations of the officers for the substance of the measure, they also summoned two of the most experienced to discuss the final draft with them, clause by clause.[2] This was typical of the manner in which the commissioners harnessed and built their administration around the executive. In their new duty of diffusing information concerning the Colonies and Passenger Act,[3] for example, they almost invariably used their officers as the channel of communication. It was the officer who passed on guidance by handbills, advertisements, letters in the local press or notices outside his office[4]; it was he who published abstracts of new legislation for the benefit of shippers[5] and posted copies of a simple guide for emigrants on every vessel.[6] The commissioners recognized that most potential emigrants would never be reached by, or understand, the official publications,[7] and that the local knowledge and influence of the executive was the best weapon in their armoury.

In general, indeed, they handled and utilized their officers very wisely. Wherever possible, they co-ordinated practice, by recommending particular methods of inspection and issuing standard interpretations of statutory requirements.[8] But otherwise they left

[1] C.O. 384/67, 1359 Canada, 17 Aug. 1841, and endorsements.

[2] *Report of Commissioners on Necessity of Amending Passengers' Act.* ICmd. 3551, p. 6. H.C. (1842), XXV. The report discusses the new proposals, clause by clause, and throws much light upon the commissioners' debt to their officers, and their reasoning and purposes. See also *Correspondence relative to Emigration to Canada.* ICmd. 2981, pp. 72–9. H.C. (1841), XV.

[3] Cf. Hitchens, *op. cit.*, pp. 97–117.

[4] C.O. 386/19, pp. 83–7, 6 June 1837; C.O. 384–61, 1273 Canada, 2 July 1840; C.O. 384–68, 169 Emigration, 26 Jan. 1841. For an example of a warning in the local press, see *Nation* (Dublin), 11 Apr. 1846.

[5] C.O. 385/31, p. 246, 2 Sept. 1842.

[6] *Seventh Annual Report of Commissioners.* ICmd. 8091, p. 4. H.C. (1847), XXXIII.

[7] C.O. 384/78, 1209 Canada, 10 Nov. 1845.

[8] E.g. *Return of Emigration Officers in United Kingdom.* H.C. 255, pp. 7–22 (1854), XLVI.

the officer a very free hand. This was not only, they believed, 'indispensible in the circumstances of the case',[1] it was also eminently desirable. Undoubtedly the commissioners were right. There is abundant evidence that most officers were men of sense, courage and self-reliance.[2] 'I sometimes take the spirit of the law instead of taking the letter', said one, 'and I take responsibility upon myself in doing so, but I have never hesitated to do it.'[3] As Low's earlier conduct had shown, this attitude had its dangers. But the commissioners realized that such risks must be taken if emigrant protection were to become a reality. Especially in the smaller ports, officers could exercise, through their own force of character, an extraordinary influence and control over the local trade. They could assist emigrants in a multitude of other informal ways, such as mobilizing public opinion against abuses[4] or enlisting the support of the clergy and inhabitants for the relief of occasional distress.[5] Moreover the very existence of the commission removed the evils which had made possible the Low imbroglio. The officers were now subject to a certain, informed and active authority. This was as important for their guidance and support as for their discipline. The officer no longer played a lone hand, with its inevitable temptation either to self-importance or to timidity. The commissioners defined his discretions as far as possible, and backed him loyally when he exercised them. In 1851, for instance, 'war' was declared between the American masters and a new officer at Liverpool who insisted on regulating stowage. Supported by their consul at the port, the Americans sailed without submitting to the new inspection, which they dismissed, in the rebel language of private enterprise, as 'too troublesome' and an 'annoyance'.[6] The commissioners stood firm, and

[1] C.O. 384/88, 7161 Emigration, 20 Aug. 1851.

[2] For tributes to particular officers, see *Report Select Committee on Colonization from Ireland.* ICmd. 7371 p., 344. H.C. (1847), VI; *First Report Select Committee on Emigrant Ships.* H.C. 163, pp. 171–2 (1854), XIII; C.O. 384/86, 4876 and 9129 Emigration, 6 June and 31 Oct. 1851.

[3] *First Report Select Committee on Emigrant Ships.* H.C. 163, p. 116 (1854), XIII. The officer in question was Lieut. Lean of London, who was outstanding for his abilities and success.

[4] *Ibid.*

[5] E.g. C.O. 384/69, 574 Emigration, 23 Mar. 1842. Cf. O. MacDonagh, 'The Irish Catholic clergy and emigration during the Great Famine', *Irish Hist. Stud.*, v (1947), 287–302.

[6] C.O. 384/88, 7161 Emigration and 9669 and 10116 North America, 20 Aug. and 15 and 20 Nov. 1851.

ordered the officer to enforce bonds to make an example of the recalcitrants.[1] A final and most important corrective supplied by the commission was its policy, urged constantly upon the officers, of coming to a reasonable understanding with the trade. Elliot laid down the rule: no officious interference with shippers, so that those connected with the trade may reciprocate good-will.[2] Nor was this a mere pious sentiment. When Capt. Keele became involved in angry disputes with the Glasgow shippers over the regulation of stowage in 1854, the commissioners transferred him to another port in order to avoid bad feeling, though they insisted that Keele's 'policy' be continued by his successor.[3] Once again they recognized the dangers.[4] They admitted that 'prudent' dealing with the trade presented temptations to relax vigilance, and even to corruption.[5] But again they decided that the risks must be taken if emigrant protection were to be realized. Without reasonably good relations with the main body of brokers and masters, the Passenger Act would have been unworkable.

But all this would have been of little value without new legislation. It was the 1842 act which made the commissioners' handling of their executive effective. Its main provisions were as follows: each passenger was allowed 10 square feet of superficial deck space and 9 square feet of berthing space [6]; the vessel was to supply each passenger with 7 lb. of specified foodstuffs weekly; the emigration officer was recognized as the executor of the act, and empowered to judge the quantity and quality of foodstuffs and water and the seaworthiness of vessels; brokers should henceforth require licences and their agents written authority to act on their behalf, before either might deal with emigrants; passengers were to receive 1*s. per diem* when vessels were detained; bonds for

[1] C.O. 384/88, 9286 Emigration, 7 Nov. 1851.

[2] *Report Select Committee on Colonization from Ireland.* ICmd. 7371, pp. 8–9. H.C. (1847), VI.

[3] C.O. 384/92, 11227 Emigration, 23 Dec. 1854.

[4] Naturally there is little direct evidence as to the reality of these 'dangers', but there was obviously a temptation to take things for granted when one knew and liked the individuals concerned; cf. the *Bache McEver* case, C.O. 384/88, 3531 Emigration, 27 Apr. 1850. There is some reason to believe that Lieut. Hodder's great popularity at Liverpool derived from his leniency in enforcing the passenger acts, C.O. 384/86, 6897 North America.

[5] C.O. 384/86, 10445 Emigration, 17 Dec. 1851.

[6] This restriction was in addition to the existing passenger-tonnage ratio.

due performance of their obligations were required of masters, owners and charterers; special summary processes were instituted for cases involving emigrants; and, in order to prevent evasion by technicalities, set forms were prescribed for contract tickets, brokers' licences and similar matters.[1]

Three aspects of the act deserve particular attention. First, the revolutionary extension of the state's sphere of action. Free contract was virtually abolished, and the trade clearly removed from the realms of ordinary law and commerce by being subjected to peculiar procedures and restraints. Second, the contribution of the executive officers to this extension. The commissioners justified the shackling of the passenger trade upon the ground that their officers had shown that nothing less could reduce intolerable evils.[2] Moreover, almost every clause in the act derived from the recommendations of the executive, and a remarkable feature of the statute was its emphasis upon machinery for enforcement. Indeed, the commissioners admitted that even such a major change as compelling the vessels to provide passengers with food was inspired as much by a desire to make inspections of provisions practicable as by humanitarian motives.[3] Third, the commissioners recognized that the act was not a 'final' measure. Some of their proposals failed to reach the statute book, and they themselves left other projects aside or incomplete upon the ground that too much should not be attempted at one blow.[4] Thus from the first they looked forward to further amendment, when experience should have revealed weaknesses in drafting and the trade become accustomed to regulation. The 1842 act made nonsense of the 'minimum requirements' concept, and the psychological barrier to change and extension was removed.

[1] 5 & 6 Vict. c. 107.

[2] *Report of Commissioners on Necessity of Amending Passengers' Act.* ICmd. 3551, pp. 3–4. H.C. (1842), XXV.

[3] 'It is enough to reflect on the condition of a vessel into which 200 or 300 people are crowding together, each one carrying his own box or bag of provisions, and perhaps the vessel intended to sail within 24 hours, in order to feel how impossible it must be to exercise an effectual superintendence under this head. The officers report that they often do detect deficiencies, and cause them to be supplied, but it is obvious that many other cases of a similar kind must escape the most vigilant attention', *ibid.*, p. 4.

[4] *Ibid.*, pp. 5–6, 15–24. Cf. *Report Select Committee on Passenger Acts.* H.C. 632, pp. 480–9 (1851), XIX.

The prospect now seemed reasonably fair. The corps, set on a 'constitutional' basis, was being used to the best advantage; the Liverpool establishment of officers was increased; and with the inauguration of steam lines, the commissioners greatly improved the second line of defence, the colonial, by sending fortnightly intelligences to the Canadian agents.[1] Above all, the new act worked well. In each of the next three seasons, even the colonial authorities testified that it was slowly raising the general standards in the trade.[2] For the rest, the commissioners were soon considering new legislation to remedy the deficiencies which had already been exposed. But the situation was suddenly and catastrophically changed by the Irish famine of 1845–51. This led, first, to a vast and abrupt increase in the volume of emigration. In 1845, Irish emigration alone amounted to 75,000; in 1846, to over 100,000; in 1847, to 215,000; and in the next six seasons the annual average was almost 220,000, the climax being reached in 1851 when the emigration rose above a quarter of a million. This exodus, together with the new German embarkations at Liverpool, produced a sudden three- to fourfold increase in the total volume of emigration from the United Kingdom. Second, the Irish emigration, particularly in 1846 and 1847, was much more a panic-ridden rush of refugees than a planned or considered movement; and it was accompanied by typhus, dysentery and other deficiency diseases. In 1847, at least 40,000 Irish emigrants, including some 30% of the large Irish emigration to British North America, perished at sea or upon disembarkation.

Even in 1846, the administration showed signs of strain. Vessels and ports not normally used for emigration were hastily pressed into service,[3] while the number of prosecutions under the Passenger Act increased extraordinarily[4] and the standard of inspections fell.[5] To check this decline, the commissioners, at the end of 1846, appointed six temporary officers to Irish ports,[6] and

[1] *First Report Select Committee on Colonization from Ireland.* H.C. 419, p. 44 (1847–8), XVII.

[2] *Report Select Committee on Colonization from Ireland.* ICmd. 7371, pp. 17–18. H.C. (1847), VI. See also the annual reports of the commissioners for the years 1843–5.

[3] C.O. 384/78, 1181 Canada, 3 Oct. 1846.

[4] *Papers relative to Emigration to British North America.* ICmd. 7771, pp. 9, 39. H.C. (1847), XXXIX.

[5] *Ibid.*, pp. 9–10.

[6] Hitchens, *op. cit.*, p. 164.

prepared a new and comprehensive bill. But the latter did not reach the statute book. The government decreed that no obstacles should be thrown in the way of voluntary emigration, which at this stage seemed the only hopeful prospect in the Irish predicament.[1] During 1847, the protective system collapsed completely. Inspections in the United Kingdom grew more and more cursory,[2] and in British North America they were abandoned altogether.[3] On both sides of the Atlantic summary powers were assumed, and large sums spent without authority, simply because no other course was possible in the dreadful and unexpected crisis. The commissioners floundered in the wake of events. Belatedly they added two officers to the Liverpool establishment [4] and sanctioned retrospectively such illegal though necessary expedients as the forcible detention ashore of emigrants suspected of infection.[5] The 1847 season also saw the entry of private humanitarianism into the field. An Irish philanthropist, Stephen de Vere, made the Atlantic passage between decks in order to discover the real conditions of the voyage. The 1842 act had virtually ignored this aspect of emigration, and it had never been seriously investigated. De Vere established that emigrants suffered fearfully at sea from a multitude of deficiencies, the worst being those in food, space, cleanliness, ventilation and care of the sick.[6]

All these revelations, and the general excitement aroused by the disasters of 1847, led the commissioners to propose very far-reaching changes during the following season. At one stage or another, they considered compelling every vessel to carry a physician,[7] and to supply passengers with all meals; restricting

[1] *Seventh Annual Report of Commissioners.* ICmd. 8091, p. 20. H.C. (1847), XXXIII. See also Hansard, 3rd Series, xcii. 1165.

[2] *Papers relative to Emigration to British North America.* H.C. 50, pp. 103–19, 178–82 (1847–8), XLVII.

[3] *Ibid.*, p. 132, *Further Papers relative to the Same.* ICmd. 9641, p. 15. H.C. (1847–8), XLVII.

[4] C.O. 384/80, 652 Emigration, 19 Apr. 1847. Only one was an emigration officer proper; the other was a purser.

[5] *Ibid.*, 651 Emigration, 19 Apr. 1847; C.O. 384/79, 588 Emigration, 12 Apr. 1847.

[6] C.O. 384/79, 535 Canada. For the background to de Vere's undertaking, see W. Ward, *Aubrey de Vere: a Memoir* (London, 1904), p. 154.

[7] *Papers relative to Emigration to British North America.* H.C. 50, pp. 41–4 (1847–8), XLVII.

emigration to a few nominated ports [1]; the establishment of a single, self-contained emigrant depot at Liverpool, with special docks, refectories, dormitories, retail shops and brokers' offices, where the entire emigration of the port could be brought under continuous central supervision.[2] Such proposals show clearly the logical end of the regulation which had been entered upon so casually in 1833. If inspections were to be adequate under the new conditions, either the corps must be multiplied several times in number, or else emigration must be restricted to particular ports where the existing force could be deployed most economically. The experience of the officers had driven them to the conclusion that the only answer to systematic fraud in such a port as Liverpool, and even perhaps in the larger Irish ports like Cork, was to bring every aspect of the trade under the most minute and direct surveillance. The sheer exigencies of the case pointed the way to highly centralized, 'Benthamic' types of solution; and it is interesting to note that within a few years the same solution was thrown up by the corresponding evils in New York, when Castle Garden was established in 1855.[3] The commissioners' proposals also illustrate the almost irresistible temptation to what we might call 'wishful' legislation and administration, which the sudden revelation of suffering and abuse presented. Though the more extreme of the proposals were never realized, the passenger acts and orders-in-council of 1847–9 included several requirements which the commissioners must have known were unenforceable.[4] It was not that they were intimidated by the public outcry, but simply that they reacted in the same way as mid-Victorian opinion generally to the sensational disclosure of grave social evils. In such circumstances, considerations of the state's 'sphere of action', or even of its administrative capacity, tended to be ignored. Repressive and regulating legislation seemed the natural and inevitable course, whatever its administrative implications.

[1] Hitchens, *op cit.*, pp. 137–8.

[2] C.O. 384/81, 1694 Emigration, 30 Aug. 1848; C.O. 384/84, 4584 Emigration, 22 May 1849.

[3] Cf. R. J. Purcell, 'The New York Commissioners of Emigration and Irish immigrants, 1847–60', *Studies*, xxxvii (1948), 28–42.

[4] In my article, 'The regulation of the emigrant traffic from the United Kingdom, 1842–55', *Irish Hist. Stud.*, ix (1954), the passenger legislation and problems of the famine period, which I summarize in the present article, are discussed at length.

This reaction, in fact, might even be represented as the first stage in a dialectic of nineteenth-century reform. We might plausibly take the original act of 1828 as just such a starting-point. Once the act, springing from a humanitarian demand, was passed, an executive to enforce it became necessary. The experience of the executive revealed that further steps must be taken. In turn, these new measures, and the chain reaction of regulation which they inevitably set off, grew beyond the capacity of the executive to enforce. Then, the stage is set, perhaps, for another cycle. The unsatisfactory and prolific passenger legislation of the late 'forties had itself an important consequence. It drew attention to the problem of emigrant protection, and led to several investigations by private philanthropists and to parliamentary inquiries by select committees of the commons in 1851 and 1854. These revealed clearly the large and ever-growing chasm between the requirements of the law and what was, in fact, enforced. But the select committees, instead of calling a halt to legislation and concentrating attention upon the execution of the statutes, demanded more and more legislative requirements.[1] This was, perhaps, natural enough. The committees were composed of laymen, who, abruptly confronted with unknown miseries and abuses, and unfamiliar with the endless technical difficulties of overcoming them, reacted in the normal way. But the result of this amateur intervention, coinciding with the commissioners' own struggles to realize the 'wishful' legislation of the late 'forties, was to push the legislative frontier still farther forward, and to increase still more the dichotomy between law and practice.

The nine years between 1847 and 1855 produced several orders-in-council and no less than six passenger acts,[2] three of them, the acts of 1849, 1852 and 1855, being major consolidation measures. Briefly, the cumulative change since 1842 was as follows. By 1855, the dietary scale was so extensive and so varied that passengers could depend almost entirely upon the ship's food, and sea stock was no longer necessary. Passenger space was now

[1] *Report Select Committee on Passenger Acts*. H.C. 632, pp. xx–xxx (1851), XIX; *Second Report Select Committee on Emigrant Ships*. H.C. 349, pp. iii–vi (1854), XIII.

[2] 10 & 11 Vict. c. 103; 11 & 12 Vict. c. 6; 12 & 13 Vict. c. 33; 14 & 15 Vict. c. 1; 15 & 16 Vict. c. 44; and 18 & 19 Vict. c. 119. The 1855 Act consisted of 103 clauses; the 1828 Act had only seven.

subject to many regulations. The passenger ratio was reduced to one for every two registered tons; the height between decks was increased to 7 feet; each passenger was allowed 18 square feet of lower deck space and 5 square feet of upper; and these proportions were much larger if certain specified conveniences were not provided. The sexes were now segregated by bulkheads. Every passenger had to be certified as free from infectious diseases before he might embark. The majority of vessels had to provide a qualified physician; a cook and kitchens; a passenger steward to enforce discipline and to supervise berthing and meals; and a hospital for the sick. There were complicated regulations governing lifeboats, privies, ship's instruments and ventilation mechanisms. The licensing of brokers was more strict; the penalties for breaches of contract were much heavier; the summary process had been rendered still more expeditious, inexpensive and informal; the number of prescribed schedules had multiplied; and brokers' runners were now drawn into the net of state control. Finally, the commissioners' and officers' discretions had been enlarged successively in 1849, 1851 and 1855.

If in certain respects the new enactments were a mere extension, however great, of the older measures, in others they surely implied a different sort of state. The regulation of the passenger trade had so grown both in scale and in technicality that the existing form of administration was overwhelmed. By the early 'fifties, the emigration officer's specific obligations under the passenger acts included the examination of the seaworthiness of vessels and lifeboats; the checking of numbers; the inspection of food and water [1]; almost daily appearances in court to redress the grievances of passengers [2]; the measuring of deck space and the height between decks; the supervision of stowage; testing the seamanship of crews; and the examination of cooking places, the structure of berths and bulkheads, sanitation, and a host of other matters. The inspection required by statute would have taken

[1] The commissioners recommended that one food package in every ten, and one water cask in every five, should be opened. If there were any grounds for suspicion, even this would not suffice, C.O. 384/74, 607 Emigration, 9 June 1843. Even under the 1842 act, it was estimated that inspections should take three to four hours for the average vessel.

[2] *Report Select Committee on Passenger Acts.* H.C. 632, p. 105 (1851), XIX.

four hours, at least, for the average vessel. Such particularity might have been possible in an Irish port which sent out two dozen vessels in the spring. But how could it be carried through at Liverpool where upwards of 200,000 persons embarked each season, or, for that matter, at Irish ports like Limerick, Sligo or Cork, where the officer had to make frequent excursions along the coast?[1] The answer was that it could not be, and was not, carried through. Lieut. Hodder, the chief emigration officer at Liverpool from 1845 to 1851, simply ignored many of his duties.[2] It was discovered in 1851 that during his years of office no Liverpool vessels bound for the United States were measured, no genuine muster of passengers took place, no water casks were tested, and stowage was left to the master's own discretion. The clearance was a 'matter of form', often conducted while the vessel left the docks, in the midst of wild confusion, with passengers and luggage being thrown aboard at the eleventh hour.[3] Yet Hodder might fairly have pleaded that he had had no alternative. Liverpool was a vast entrepôt thronged with shipping. As many as thirty emigrant vessels, carrying perhaps seven or eight thousand passengers, often sailed on a single tide,[4] and four miles of docklands might separate one vessel from the next due for examination.[5] In the very year in which Hodder's neglects were exposed, one of the commissioners, T. Murdoch, testified that the Liverpool officers were toiling from dawn to dusk.[6] The same difficulties existed even in the smaller Irish ports. Whenever the pressures were unusually great, there was a corresponding rise in the colonial prosecutions against their vessels.

Thus the service of the emigration officers became increasingly inadequate. Perhaps as early as 1848 their duties were too onerous, and thereafter they multiplied almost annually, while the numbers of the corps increased only slightly down to 1852 and then began

[1] C.O. 384/78, 1181 Canada, 3 Oct. 1846; C.O. 384/85, 3111 Emigration, 17 Apr. 1850.

[2] C.O. 384/86, 5705 North America, 1 July 1851.

[3] *Ibid.*, 6983 North America, 30 July 1851. See also *Morning Chronicle*, 15 July 1850, p. 6.

[4] *Report Select Committee on Colonization from Ireland.* ICmd. 7371, p. 482. H.C. (1847), VI.

[5] C.O. 384/84, 2663 Emigration, 29 Mar. 1849.

[6] *Report Select Committee on Passenger Acts.* H.C. 632, pp. 745–7 (1851), XIX.

to decline. Before 1847, the commissioners had made some effort to keep pace with the growth in legislation and in the volume of emigration. But after this year they did nothing further for the Irish corps beyond appointing a coastal assistant at the Shannon estuary,[1] while down to 1851 the Liverpool establishment consisted of only three emigration officers proper.[2] Yet the commissioners were well aware that the work of all officers had increased at least threefold since 1845.[3] In 1852, so Elliot wrote of his own department, the growth in business 'is almost unparalleled in the short period of time'.[4] The select committee of 1851 was shocked to learn that four men were expected to control almost 200,000 emigrants annually at Liverpool, and that the Cork and Limerick officers had to cope with up to 10,000 persons each year unaided and cover several outposts into the bargain.[5] Nonetheless, the corps was never increased after 1852. Indeed, soon after, the commissioners began to reduce its numbers, a policy which they steadily pursued until their supervision ended in 1872.[6]

The second fatal weakness of the corps arose from the fact that the officers' duties grew continuously, not only in extent, but also in complexity and difficulty. As the new methods of statistical inquiry and technological improvement, practised or encouraged by the commissioners, gradually bore fruit, the officer was saddled with the task of putting the fresh requirements into force. By 1855, even such matters as the mechanics of water closets,[7] the

[1] On the contrary, they withdrew some of their Irish officers in 1848. The assistant was stationed permanently at Tarbert, and, consequently, could give no direct help to the Limerick officer.

[2] Partly as a result of the Hodder episode, and partly because of the strong recommendations of the select committee of 1851, the Liverpool staff was doubled during 1851–2. But, even with this increase, it was insufficient, as the evidence given before the select committee of 1854 amply demonstrates. See also C.O. 384/89, 5210 North America, 18 June, 1852; C.O. 384/99, minute of T. Murdoch, unmarked, 17 Mar. 1859.

[3] C.O. 384/89, 6006 North America, 28 June 1852.

[4] *Ibid.*, 1924 Miscellaneous, 5 Mar. 1852.

[5] *Report Select Committee on Passenger Acts.* H.C. 632, p. xv (1851), XIX.

[6] Pressure from the treasury to economize was, of course, an important factor. After the commission was dissolved in 1872, the few remaining officers passed under the control of the Board of Trade.

[7] *Second Report Select Committee on Emigrant Ships.* H.C. 349, p. 10 (1854), XIII.

effect of iron cargoes on navigational instruments, the 'swinging' of azimuth compasses,[1] the combustibility of coal, or the effectiveness of ventilation devices, were left almost completely to his own discretion; and he was the sole judge of the qualifications of ship physicians, the capability of passenger stewards, the arrangement of kitchens, and a multitude of similar and more or less technical issues. The burden was of course impossible. When officers attempted to perform such functions, they found themselves more and more at loggerheads with the trade. Shippers and masters complained with justice that emigration officers were incompetent to judge many of the new and increasingly scientific considerations.[2] The upshot was that the mid-'fifties were marked by more bitterness and conflict than any other period, except perhaps Low's early Liverpool régime. Legal actions were taken against individual officers [3]; protests poured in against their discretionary powers, and the fact that the commissioners would allow no appeal from their 'amateur' decisions.[4]

Once again, there can be no question of blaming the officers themselves for the deficiency. It was not their fault that the commissioners provided no adequate or alternative machinery for enforcing technical or scientific legislation. It was rather that the sort of service which they had to offer was insufficient for the demands of a new sort of state. For, in this respect, our period represents a watershed. The emigration officers were amongst the best tools of the old rough and ready, essentially personal type of administration. Up to a certain stage, and intelligently utilized, they were effective instruments. But many forces emerging about the same time made it seem necessary that administration should go farther than the officers could reach. The growing body of exact knowledge of the actual plight of emigrants, the prevalent

[1] Capt. Schomberg, the chief officer at Liverpool in 1854, admitted that emigration officers were incompetent to judge such matters, *ibid.*, p. 15.

[2] E.g. C.O. 384/89, 4537 North America, 22 May 1852.

[3] E.g. C.O. 384/93, 8043 Emigration, 15 Sept. 1854.

[4] E.g. C.O. 384/89, 3379 North America, 23 Apr. 1852. The extent of the ill-feeling may be gauged from the behaviour of the shipper, who, in the course of a heated dispute, shook hands with a passenger 'intending to show up the Government Officers in the Times', C.O. 384/90, 4034 Emigration, 6 Apr. 1853; or from Elliot's nervous minute of 3 March 1854, which began, 'These are not the days in which Trade is willing to be interfered with more than can possibly be helped', C.O. 384/92, 1986 Emigration.

humanitarianism, and the mechanical advances which opened up new possibilities in the trade, drove the state, willy nilly, into very positive, technical and comprehensive regulation. In its later stages, at any rate, such regulation went far beyond what the emigration officer could accomplish. On the one hand, its emphasis on specialist knowledge, and, on the other, the volume of work, which pointed to an ever-increasing division of labour, surely implied a type of administration which was 'modern' in a sense in which even Chadwick's bureaucracy was not.

Thus, by 1855, the stage seemed set for a further revolution in administration. Legislation had far outstripped the capacity of the executive, and this fact was apparent to, if not stated in such terms by, both the officers and the interested bodies of lay opinion. But the revolution did not happen. The flow of passenger acts stopped in 1855, and thereafter the dwindling corps of executive officers merely continued their familiar shifts and struggles to fulfil the more practicable of their statutory duties. This was so because the problem of emigrant protection suddenly disappeared, or, at least, diminished to altogether different proportions. The average emigration from the United Kingdom during 1847–54 was over 300,000. In 1855, the emigration dropped abruptly to little more than half this figure, and the decline continued, more or less regularly, until 1863, the lowest point being reached in 1861 when a mere 91,000 emigrated. Thus, the great pressures which had driven the state forward in the preceding decade ceased almost overnight. It was not until the 'seventies that emigration again reached nearly to its former level, and by that time the situation had been transformed. The passenger trade had shifted almost entirely from sail to steam, and steam had passed its initial period of experimentation: this resolved automatically many of the former difficulties. Correspondingly, the character of the emigrants had altered. Doubtless, they were still poor, but the growth of the remittance system and vast changes in both the British and the Irish economies had removed forever the extremities of destitution and inexperience which had been the pre-condition of the first revolution in administration. Thus, our story is one without an ending, or, at any rate, the ending which we might expect. But it still tells us something, not without value, of the hidden pattern and self-momentum of

nineteenth-century administrative change, of the part played by the labours, compassion and illogicality of quite ordinary and often nameless men, stirred by a new acquaintance with great sufferings and misery, in bringing about a new form of society.

PRESIDENTIAL ADDRESS

By Professor H. Hale Bellot, M.A., F.R.Hist.S.

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COUNCIL AND CABINET IN THE MAINLAND COLONIES

THE cabinet in Great Britain is an emanation of the privy council. The councils in the royal colonies upon the American mainland, like those in the West Indies, were, in the language of the royal instructions to colonial Governors, 'our' councils,[1] and at the beginning of the eighteenth century there was a prospect of a like development overseas. Yet it did not occur. The offspring of the colonial council in America is the senate of the United States. That body, like the colonial councils, has both legislative and executive functions. At the start it numbered a mere twenty-six members; and it was expected that the president, following the practice of colonial governors, would seek its advice in the discharge of his office.[2] His cabinet had a quite different pedigree. It was envisaged in 1787 as something '[our Government] has always wanted, but never yet had.'[3] But it was, and still is, a meeting, not of ministers having seats in one or other of the houses of the legislature and collectively responsible to it, but of heads of departments individually responsible to the president. And it was historically, not a cabinet after the English model in a state of arrested development, but paradoxically a device of the legislature adapted to a presidential system. Why, it may be of interest to enquire, did this happen?

The explanation is to be sought in two directions. It may lie, upon the one hand, in the fact that the essential features of the modern British cabinet were not sufficiently developed in 1783 to be obvious to students of government across the Atlantic. Upon the other, and more decisively, it lies in a divergent political

[1] L. W. Labaree (ed.), *Royal Instructions to British Colonial Governors, 1660–1776* (2 vols. New York, 1935), i. 20–30.

[2] H. B. Learned, *The President's Cabinet* (New Haven, 1912), p. 85.

[3] *Cit., ibid.*, p. 91.

experience during the two generations preceding the War of Independence.

In the investigation of the history of the cabinet in Great Britain, a good deal of time has been wasted in counting, and identifying the official standing of, the persons present at ministerial meetings. It would have been more useful to have asked how, whoever they were and whatever their number, they were summoned, where they met, who attended upon them, and who, if anyone, took minutes of their proceedings and recorded the conclusions which they reached. For the different kinds of meetings were distinguished not so much by the persons present as by the hats that they were wearing; not so much by who was there, as by where they were and how they got there. It was not sufficient to the making of the modern cabinet that the crown should fall into the habit of consulting an inner ring of the privy council and should subsequently leave that 'cabinet council' to meet by itself. Neither was it sufficient that ministers should fall into the habit of meeting privately before rendering their advice in the council itself. These were essential steps in the direction of cabinet government. But it was necessary also that the cabinet council, by becoming a committee of itself, should acquire the right to meet upon its own initiative; that it should develop the practice of offering unsolicited advice,—'a change', writes Professor Pares, 'perhaps the most important in the history of the institution'[1]; and that it should thus become capable of acting as the agent of the legislature.

The history of the acquisition by the cabinet of authority to meet upon its own initiative is still obscure, precisely because too little attention has been paid to questions of procedure. That it should have met as late as 1834 by royal command is not conclusive, for that is compatible with a general practice of meeting without, which had in fact prevailed since 1783[2]; and the critical period was probably the twenty years before that. But Turner in surveying them fell into confusion by failing to distinguish between holding a cabinet 'only with the cognizance and the approval of the sovereign'[3] and the grant of royal per-

[1] R. Pares, *King George III and the Politicians* (Oxford, 1953), p. 154.

[2] A. Aspinall, 'The cabinet council, 1783–1835', *Proc. of the British Academy, 1952* (1954), pp. 175–6.

[3] E. R. Turner, *The Cabinet Council of England in the Seventeenth and*

mission to a minister to submit a matter to the cabinet before taking direction from the crown[1]; and we are still uncertain of the facts.

It was probably during the same period that the cabinet began to acquire the closely associated authority to proffer unasked advice.[2] And it was surely only during the half century following 1783 that the conception of collective responsibility to parliament and submission to a prime minister was worked out.[3]

If this chronology is correct, it was natural that there should be few references to the English cabinet in the debates of the Federal Convention of 1787.[4]

'Three years after Pitt's triumph', wrote G. B. Adams in the *American Historical Review* in 1915,

> the Constitution of the United States was framed by a large assembly of the most experienced public men and students of politics in America, who considered with care the problem of setting up a Government to operate in the best way. One great problem before them, set by the situation of the time, was to secure a really effective executive while leaving ultimate authority in the legislature as representing the people, exactly the problem which ministerial responsibility solves. In their Constitution, however, not merely did they entirely separate the executive and legislative departments, but they gave little attention to the cabinet, and they seem to have had no idea whatever of ministerial responsibility. It seems altogether probable that they thought that in this respect they were following the English model, as beyond question they did when they adopted impeachment, and certainly, had there existed in England any such definite idea of ministerial responsibility as fifty years later, there would have been some discussion of it in the Convention.[5]

And had there been any realization of the importance of the right to meet without royal command and to offer unsolicited advice,

Eighteenth Centuries, 1622–1784 (2 vols. Baltimore, 1930–32), p. 72; cf. pp. 72–4, 106, 109, 136, 139–40, 140, 149–50.

[1] Pares, *op. cit.*, p. 153.

[2] *Ibid.*, pp. 154–6.

[3] Aspinall, *art. cit.*, p. 214.

[4] M. Farrand (ed.), *The Records of the Federal Convention of 1787* (revd. ed. 4 vols. New Haven, 1937), i. 97; ii, 80, 329, 367, 499, 541–3.

[5] G. B. Adams, 'Magna Carta and the responsible ministry', *Am. Hist. Rev.*, xx (1915), 758–9.

as a necessary step towards action as the agent of the legislature, of that also there might have been some discussion. But the vital changes were only then taking place; and they were not yet generally obvious in England itself.

Yet, if it is true that most of the members of the Federal Convention were well-read men, fully abreast of contemporary political discussion, that it had hitherto been the habit in the colonies to look to the mother country for models of political machinery and for the rules of procedure, and that had the changes which were taking place there been apparent they would have received attention, nevertheless what counted for most was indigenous experience. And indigenous experience had diverged from experience 'at home'. What was decisive was, not the lack of a hardly-to-be-expected alertness to something barely perceptible as yet in England itself, but a well-established difference in colonial practice. And the crucial question is how and when did this practice diverge.

When Robert Hunter assumed the government of New Jersey in 1710, he found the province a prey to violent political dissensions and an irreconcilable quarrel between the assembly and the upper house as a result of the corrupt and arbitrary conduct of his predecessor, Lord Cornbury, aided and abetted by his confederates on the council. Faced with this situation, Hunter had recourse to what was in effect a change of administration, recommending to the Board of Trade the removal of the offending councillors so as to bring the council into harmony with the assembly.

'Imediately upon prorogueing the Assembly of this place' (namely New York, for he was Governor of that province as well), he wrote to the Board of Trade in 1711,

> I went to attend that of the Jerseys where I met with difficulties of a new nature, there I had a Council to struggle with which had well nigh rendered all my endeavours for her Majesty's service there as fruitless as the humours of the Assembly have done here. I am ordered by her Majesty to compose the differences there, or Report their true Causes, and what opposition I meet with. The former being past all human power or Act I shall do the latt[r] with all the cander imaginable . . .[1]

[1] W. A. Whitehead (ed.), *Documents relating to the Colonial History of the State of New Jersey*, vol. iv. *Administrations of Governor Robert Hunter and*

'I protest to your Lordships in the sincerity of my heart', he concluded after recounting his difficulties,

> I have noe ends to pursue but Her Majesty's service, That I have noe personall dislike to any man, That I have avoided party prejudices, and have acted by noe passions in any part of my administration, which emboldens me tell Your Lordships, that unless Her Majesty be pleased to remove from Her Councill in the Jersey's William Pinhorne, David Cox, Peter Sonmans, and William Hall there are noe hopes of peace and quiet in that Province . . . The state of the Question I humbly conceive to be this, whether these Gentlemen shall be continued in their places, which are indeed a trouble and expence to them, and for which they can have noe reall inclination, as matters stand, but to gratify their passions, and, by that means, the confusion here be perpetuated, or that they be removed and others put in their room to the entire satisfaction and perfect settlement of the minds of the people in that province, For let who will governe unless he doe it by will and pleasure, I'le be bold to affirme he can effect nothing to purpose, whilst these Gentlemen are in the Councill, and I can promise in the name of the people that nothing shall be wanting hereafter, as farr as their ability will goe which may be Judged necessary for Her Majesty's Service, if they are gratifyed in this particular.[1]

The mills of government ground slowly. This recommendation was dated 7 May 1711. It was not until August 1712 that it was submitted by the Board to the Queen in Council,[2] and even then the Secretary of State had to be prompted to issue the warrants in pursuance of the Order that was made.[3] Meanwhile Hunter refrained from summoning the legislature; and there was no meeting between July 1711 and December 1713, it being in his view 'vain to attempt anything in the Jerseys until the Council be alter'd'.[4] In so acting he had the concurrence of a group of supporters within the council, dubbed by one of his opponents 'his Cabinet Councill' and clearly distinguished from 'Her Majties Councill of State', which, it was complained was 'Seldome Consulted'.[5]

President Lewis Morris. Archives of the State of New Jersey, 1st ser., vol. iv (Newark, N.J., 1882), p. 51.

[1] *Ibid.*, pp. 61–2. [2] *Ibid.*, pp. 169–71. [3] *Ibid.*, p. 183; cf. p. 331.
[4] *Ibid.*, p. 183 n. 1, cf. pp. 171 n. 1, 211. [5] *Ibid.*, pp. 119–20.

But if the seeds of cabinet government are plainly visible in a situation such as this, a variety of circumstances peculiar to the colonies prevented the plant from growing there as it grew upon the other side of the ocean. In all the colonies, save in Pennsylvania after 1700,[1] the council formed the upper house of the legislature; and to begin with, the governor presided at its legislative as well as at its executive sessions. In all the colonies save that of Massachusetts Bay, where it was nominated by the assembly, the council normally numbered a mere dozen, with two or three royal officials added as extra members. Those who belonged to it had, moreover, to travel long distances to attend its sessions, and being for the most part farmers and planters it was even more difficult to persuade them to come to the capital and stay there than it was to keep English landlords and country gentlemen in London. While they were not, as members of the upper house, a distinct estate like the members of the house of lords, but of the same clay as their fellows in the assembly, yet they tended to become representative of unpopular interests—of the proprietors, of the creditors, of royal control. Most important of all, as the governor, while withdrawing from their legislative, never withdrew from their executive sessions and continued himself to be closely supervised and precisely instructed from Whitehall, these meetings continued to be formal sessions of the council itself. Thus, if here and there they developed the practice of appointing committees out of their own number, they never acquired the right to meet as a cabinet council upon their own initiative or to tender unasked advice. They failed, therefore, to become available as agents, in the several colonies, of the legislature in its conflicts with the crown, and the legislatures had to seek other ways to establish their paramount authority and to make the governor the executive of their wishes.

The confusion of conciliar and legislative business was itself an obstacle to constitutional development, and it did not wholly disappear until the middle 'fifties.[2] So long as, in addition, the gover-

[1] W. R. Shepherd, *History of Proprietary Government in Pennsylvania* (Columbia Univ. Studies, no. 16. New York, 1896), pp. 317, 318–19; W. T. Root, *The Relations of Pennsylvania with the British Government, 1696–1765* (New York, 1912), p. 153.

[2] C. W. Spencer, *Phases of Royal Government in New York, 1691–1719* (Columbus, O., 1905), pp. 52, 67–8; E. P. Tanner, *The Province of New*

nor continued to attend the legislative sessions of the council there was a likelihood that procedure would be perplexed; and so long as he did so, the legislative sessions of the upper house compared unfavourably with those of the lower; for the effect of the governor's presence was to discredit the proceedings, and consequently the councillors themselves in their own persons, in popular estimation, causing them to be regarded, in comparison with the members of the assembly, as instruments of royal or proprietary control. The governor withdrew in Virginia in 1725, in New York in 1730, in New Jersey in 1738, in South Carolina not until 1756.[1]

The difficulty of securing a proper attendance of councillors was constantly complained of[2]; and it was greater, as was to be expected, at conciliar than at legislative sessions.[3] Professor Labaree sees in this one of the principal causes of the poor standing of the councils in public estimation.[4] He is supported by the fact that the most mature conciliar development occurred in the provinces of Massachusetts and South Carolina, which contained in Boston and Charleston two of the largest towns of colonial America. The customary number of twelve was, it is true, no

Jersey, 1664–1738 (Columbia Univ. Studies, no. 80. New York, 1908), pp. 221, 297; E. J. Fisher, *New Jersey as a Royal Province, 1738 to 1776* (Columbia Univ. Studies, no. 107. New York, 1911), p. 49; W. A. Whitehead (ed.), *Documents relating to the Colonial History of the State of New Jersey*, vol. vii, *Archives of the State of New Jersey*, 1st ser., vol. vii (Newark, N.J., 1883), p. 77; Shepherd, *op. cit.*, pp. 227, 235, 239, 283; P. S. Flippin, *The Royal Government in Virginia, 1624–1775* (Columbia Univ. Studies, no. 194. New York, 1919), pp. 205–6; E. I. Miller, *The Legislature of the Province of Virginia* (Columbia Univ. Studies, no. 76. New York, 1907), pp. 99, 127, 129 n. 2, 136 n. 5; C. L. Raper, *North Carolina. A Study in English Colonial Government* (New York, 1904), p. 78; W. R. Smith, *South Carolina as a Royal Province, 1719–1776* (New York, 1903), pp. 91–5, 289, 322–3; L. W. Labaree, *Royal Government in America* (New Haven, 1930), pp. 152–3.

[1] Flippin, *op. cit.*, p. 206; Spencer, *op. cit.*, pp. 96, 155–6; Fisher, *op. cit.*, pp. 48–50, 106; Smith, *op. cit.*, pp. 93–4, 306, 314, 322–3.

[2] W. H. Fry, *New Hampshire as a Royal Province* (Columbia Univ. Studies, no. 79. New York, 1908), pp. 122–3, 127; Tanner, *op. cit.*, pp. 253, 278, 284, 288; Fisher, *op. cit.*, pp. 50–1, 57–8, 118–19; Whitehead, *op. cit.*, p. 138; Shepherd, *op. cit.*, pp. 261, 265, 271; N. D. Mereness, *Maryland as a Proprietary Province* (New York, 1901), pp. 178–9; Flippin, *op. cit.*, pp. 145, 156–7; Raper, *op. cit.*, pp. 77–81; Smith, *op. cit.*, pp. 335, 339.

[3] Raper, *op. cit.*, p. 78.

[4] Labaree, *Royal Government in America*, p. 152.

smaller than that of the contemporary cabinet council in England. But there the cabinet council itself was the precipitate of a larger body. The quorum of the colonial council was normally three to five[1]; and it was possible for meetings of council to become rare events. In New Hampshire the council came in time to exert little influence.[2] It became an insignificant body in Maryland between 1715 and 1753, though its standing there improved during the governorship of Horatio Sharpe.[3] Its title to sit as an upper house was disputed in South Carolina in 1756, 1770 and 1773.[4] In Pennsylvania it ceased to do so in 1700.[5]

Moreover, members of council never enjoyed, when sitting as the upper chamber of the legislature, the authority of a distinct estate. In New York in 1711 the assembly observed, in a message to the upper house, ''Tis true the Share the Council have (if any) in the Legislation does not flow from any Title they have, from the Nature of that Board, which is only to advise, or from being another distinct State or Rank of People, in the Constitution which they are not, being all Commons, but only from the meer Pleasure of the Prince signified in the Commission'. In South Carolina in 1756 the assembly took a more lenient view. But there, also, the members of the upper house were reminded that every individual was represented in the assembly itself.[6] Yet the councils were frequently separated from the assemblies by the fact that they stood for unpopular and what often came to be regarded as alien interests. In Connecticut, although it was not there the case that the governor presided over its legislative sessions, the council was looked upon as an instrument of royal control.[7] In New Hampshire it tended to represent the interests of the credit-

[1] Labaree (ed.), *Royal Instructions to British Colonial Governors*, i. 49.

[2] Fry, *op. cit.*, p. 127. [3] Mereness, *op. cit.*, pp. 180–1.

[4] Smith, *South Carolina as a Royal Province*, pp. 322, 325–7, 371–8, 387–93, 400–1.

[5] Shepherd, *History of Proprietary Government in Pennsylvania*, pp. 317, 318–19.

[6] C. W. Spencer, *Phases of Royal Government in New York, 1691–1719* (Columbus, O., 1905), pp. 139–40; Smith, *op. cit.*, p. 326, cf. 238; E. McCrady, *The History of South Carolina under the Royal Government, 1719–1776* (New York, 1899), pp. 285–8; cf. H. L. Osgood, *The American Colonies in the Eighteenth Century* (4 vols. New York, 1924), iii. 19; Labaree, *Royal Government in America*, pp. 152–3.

[7] O. Zeichner, *Connecticut's Years of Controversy, 1750–1776* (Chapel Hill, N.C., 1949), p. 48.

ors.[1] In New Jersey it was commonly in alliance with the governor,[2] and when it was not, tended to represent the interests of the proprietors.[3] In Maryland it was regarded as the ally of the proprietors[4]; in North Carolina, as the ally of the governor.[5] In South Carolina it was representative of the creditors.[6]

But the most decisive feature of colonial constitutional history was the failure of the ministers of the crown to dominate the councils and as councillors to win the confidence of the legislatures. It was not that offices of profit under the crown were not eagerly sought after and frequently bestowed upon colonial councillors,[7] although there was some reluctance upon the part of the crown to bestow them and a good deal of pressure upon it to use colonial patronage to feather English nests.[8] Nor was it the case that there was a failure to appoint to colonial councils the royal officials sent out from Great Britain.[9] What counted was that these 'ministers'[10] acted upon instructions received from Whitehall, and were paid out of revenues beyond the control of colonial legislatures, and that they were in consequence regarded with suspicion by the colonial assemblies, spoken of depreciatingly as 'placemen',[11] sometimes actually excluded from membership of the lower house,[12] and even threatened with exclusion from the council itself.[13]

[1] Fry, *op. cit.*, pp. 356–7.

[2] E. P. Tanner, *The Province of New Jersey, 1664–1738* (Columbia Univ. Studies, no. 80. New York, 1908), pp. 84, 169–72, 223, 227–8, 273, 286, 298.

[3] Fisher, *New Jersey as a Royal Province*, pp. 60, 103, 171.

[4] Mereness, *Maryland as a Proprietary Province*, pp. 296, 318–19.

[5] Raper, *North Carolina*, p. 219. [6] Smith, *op. cit.*, pp. 234–5, 330.

[7] Fry, *New Hampshire as a Royal Province*, p. 122; Zeichner, *Connecticut's Years of Controversy*, pp. 126, 129, 310 n. 44, 324 n. 48; Tanner, *The Province of New Jersey*, pp. 295–6; Mereness, *Maryland as a Proprietary Province*, pp. 373, 384, 389, 470; Flippin, *The Royal Government in Virginia*, pp. 92, 153, 159–60, 222, 223, 228, 245–9, 253–4, 257, 264, 268, 279, 322, 356–7, 358; Miller, *Legislature of the Province of Virginia*, p. 140; Smith, *South Carolina as a Royal Province*, p. 87.

[8] Smith, *op. cit.*, pp. 331–2, 347.

[9] Labaree (ed.), *Royal Instructions to British Colonial Governors*, i. 15, 18, 19, 25, 31; Tanner, *op. cit.*, pp. 260, 277–8; Flippin, *op. cit.*, p. 258.

[10] Mereness, *op. cit.*, pp. 394, 395. [11] Cf., e.g., Fisher, *op. cit.*, p. 450.

[12] Tanner, *op. cit.*, pp. 331–2, 363, 450; Mereness, *op. cit.*, pp. 167, 213–14; Flippin, *op. cit.*, pp. 208–9, 214, 227, 358; Miller, *op. cit.*, pp. 56–8, 94; Smith, *op. cit.*, pp. 116, 117.

[13] Mereness, *op. cit.*, pp. 190, 192–3.

The consequence of all this was that only in Massachusetts, Virginia, and South Carolina did the council show signs of becoming the agent of the legislature: in South Carolina after 1760 it was composed predominantly of office-holders.[1]

An interesting comment upon the situation in South Carolina was made by James Glen in 1748. Appointed governor of the province of Carolina in 1738, he delayed for five years before assuming personally the discharge of his office, not arriving in the colony until December 1743. Meanwhile the administration was left in the hands of a lieutenant-governor drawn from the ranks of the local magnates. Glen complained in 1748 that he found, in consequence of 'a long loose administration', 'the whole frame of Government unhinged', and 'the political balance . . . entirely overturned'.[2] What disturbed him most was the attempt of the council to exclude the governor from its legislative sessions; and with that dispute I am not here concerned. But the council appears in addition to have sought to discharge even its conciliar functions independently of the governor. Glen is not always a perspicuous writer, and it is not entirely clear what precisely he meant to say about this in his letter to the Board of Trade. Indeed the Board itself found an opportunity to shirk the troublesome issues that he raised in the fact that he had not put them in full possession of the state of affairs: '. . . it will be necessary', they replied, 'to make a very careful and particular Examination into the several Points you mention and from whence such Encroachments have arisen; and here as We cannot but take Notice of our not being furnished with such Papers as may give us a true Insight into these matters We are greatly surprised that you did not at the same time you made these Complaints take Care to transmit all such Papers as have any relation thereto . . .'[3] What Glen had said about the council was, after recounting their resolution to enter upon no 'Assembly business' in his presence,

> many errors relating to the Council as Council, have Laws and Customes to support them, for example, The Governor is

[1] Smith, *op. cit.*, pp. 87, 234–5, 330.

[2] P.R.O., C.O. 5/372, fo. 81; for a summary of the document, see *Collections of the South Carolina Historical Society*, ii (Charleston, S.C., 1858), pp. 303–5; cf. McCrady, *History of South Carolina under the Royal Government*, pp. 182, 254–6, 258–9.

[3] P.R.O., C.O. 5/402, fo. 188.

restrained by His Commission and Instructions from calling an Assembly or granting any of His Majesty's Lands and many other things, but by the advice of Council; the meaning seems mighty plain, that the executive part is in the Governor, but that he cannot do these things without their advice, but it has been otherwise understood here, for the Council must sign the election Writts as well as the Governor; and all applications and Petitions for Land are addressed to the Governor and to the Hon^ble the Council, so that the Governor in Council is always interpreted to mean the Gov^r and the Council.[1]

The constitutional significance of this must not be exaggerated. What was grandiloquently spoken of as the 'upper house' was a handful of men who must sometimes have found it difficult to remember whether they were acting in their legislative or their executive capacity.[2] Glen had reported in 1744 that he found the legislative business had 'usually been transacted by three, often by two only, and sometimes by one without the Governor'.[3] This little group of men was moreover at loggerheads with the assembly. What they pretended to in their executive capacity might therefore be regarded as a mere usurpation of royal authority and not a step towards the assumption of initiative by the council and the proffer of unsolicited advice.

An episode occurred at the same date in New Jersey that is less ambiguous. It is recorded in a memorandum drawn up by six members of the council in that colony. The memorandum runs as follows:

That on Friday December the Sixteenth 1748, His Excellency Jonathan Belcher Esq.^r Came into the Council Chamber, when the following Members of his Majesties Council were present, Viz^t . . ., and having Sent for the house of Assembly, They came; and his Excellency having given his Assent to the Bill for the Support of Government, and five other Bills, he was pleased to prorouge the General Assembly to the Sixteenth day of February. M.^r Morris then In Behalf of the Council applied to his Excellency, and told him That The Council had Several

[1] P.R.O., C.O. 5/372, fos. 84.–5 [2] Smith, *op. cit.*, pp. 94–5.
[3] D. D. Wallace, *The History of South Carolina* (3 vols. New York, 1934), i. 444; cf. *Collections of the South Carolina Historical Society*, ii (Charleston, S.C., 1858), p. 286.

matters to lay Before Him, and to advise him upon Relating to the present State of this Province which they Beg'd he would receive, But his Excellency Replyed that The Council had right to advise him but when they were asked; and That when he wanted their Advice, he would call them for that purpose. To which M.r Morris replyed, That the Council Thought it their Duty to Advise his Excellency in matters for his Majesties Service And the Good of the province, whether his Excellency demands That advice or not, upon which the Governor Said: When I want The advice of the Council I shall ask for it. To which M.r Morris Again replied: I believe, Sir, the Council will hardly wait for that. And Then his Excellency left the Council Chamber.[1]

That this was not the council acting as the upper house is made clear by a communication sent by the six councillors to the governor. 'It is with very Great Concern', they wrote,

we find our Selves under a necessity of Applying to your Excellency in The manner we now do, but The Duty of our Stations and the Oaths we have taken as Members of his Majesties Council will not permit us to neglect any thing that may Tend to the Support of his Majesties Authority, to the preservation of his peace, or to the Suppression of the Treasons and Traitorous Designs that do now, and for a long time past have Subsisted and been Carried on in this province . . . we Should have been heartily Glad if your Excellency had been pleased to have Consulted his Majesties Council on the important affairs of this Province, or by meeting with them as a Privy Council, you had given Them the opportunity of Laying before you and Giving your Excellency their thoughts and advice upon the present Disorders of the province.

Had your Excv. been pleased to have Complied with the humble request of his Majesties Council on friday last . . . we Should then have Communicated to your Excellv. the resolutions the Council had that Day, in their Legislative Capacity, come into upon the house of Assembly's refusing to do any Thing to Suppress a Treasonable Conspiracy against his

[1] W. A. Whitehead (ed.), *Documents relating to the Colonial History of the State of New Jersey*, vol. vii, *Archives of the State of New Jersey*, 1st. ser., vol. vii (Newark, N.J., 1883), pp. 183–4.

> Majesties Government, and have shewn your Excellᵛ. the Dangerous Consequence of Such their refusal . . . All these Things we Should in most humble manner have laid before your Excellency . . . had not your Excellency refused to receive them, by Declaring that his Majesties Council had no right to give any advice till it was asked, and immediately leaving the Coucil Chamber.[1]

In Massachusetts what was at issue was more starkly posed in 1771. But it should be remembered that in this province the council was a relatively large and an elective body.[2] In the royal instructions to the governor of the province the following passage was included in that year.

> Whereas it hath been represented unto us that the members of our council in our province of Massachusetts Bay have of late taken upon them to hold frequent meetings for the transaction of public business as a board of advice and counsel to our governor and commander in chief for the time being of our said province, without any summons from our said governor or commander in chief as aforesaid, or without our said governor or commander in chief being present at such meetings; and whereas such a practice is neither warranted by the charter of the said province nor consistent with usage and custom, we have therefore thought fit to declare and we do hereby declare our royal disapprobation and disallowance of such unjustifiable and unconstitutional proceedings. And it is our will and pleasure that you do cause the same to be notified to the members of our said council and entered upon the council books. And it is our further will and pleasure that if, notwithstanding this admonition, the members of our said council shall persist in holding such meetings, as aforesaid, you do give the strictest injunction to our secretary of our said province and to all others whom it may concern that neither he nor they do upon any pretense whatever cause to be entered upon the council books any acts done by, or minutes of the proceedings of the members of our said council who may hereafter meet as a board of advice to our governor or commander in chief as aforesaid

[1] *Ibid.*, pp. 185–8.

[2] Cf. E. B. Greene, *The Provincial Governor in the English Colonies of North America* (New York, 1898), pp. 76–7.

without a summons for that purpose from our said governor or commander in chief or without our said governor or commander in chief being present; and you are on no account to give your consent to the reëlection of any member of our said council who shall hereafter presume to be present at or to consent to or advise any such meeting as aforesaid. It is nevertheless our will and pleasure that nothing herein contained shall be construed to have any intention to prevent the members of our said council from meeting as committees upon business referred to them by the whole council at large with the consent and approbation of our governor or commander in chief of our said province for the time being, although such committees have not received any summons from our said governor or commander in chief as aforesaid, and although our said governor or commander in chief may not be present at such committee. And it is our further will and pleasure that nothing herein contained shall extend to interfere with the meetings of our said council in their legislative capacity.[1]

The significance of these events is obvious. Yet it is equally clear that a variety of factors was present to prevent them from developing to their logical conclusion. And had the normal sequel occurred, had the governor withdrawn from the ordinary sessions of the council, had that body secured the right to meet upon its own initiative and to tender unasked advice, had the 'ministers' won the confidence of the assemblies, there would still have remained the task of finding means to harmonize the relations between the chief executive and the legislature, when the governor was not his own master but a deputy acting upon instructions and when the legislature was beyond the reach of the 'influence of the Crown'. It was a situation, moreover, that the growth of parliamentary authority and the rise of the house of commons did nothing to ease, but rather made it more difficult to deal with.[2]

The consequence was that constitutional development in the mainland colonies took a different turn, and that the American cabinet had a different origin. Throughout the provinces the

[1] Labaree (ed.), *Royal Instructions to British Colonial Governors*, i. 48–9. I am indebted to the American Historical Association for permission to quote this document. Upon the situation in Virginia, see Flippin, *Royal Government in Virginia, 1624–1775*, pp. 147, 166–7, 169, 174–5, 205.

[2] Labaree, *Royal Government in America*, pp. 167–71.

lower houses of the colonial legislatures successfully asserted, in the course of the first half of the eighteenth century, their claims to the privileges enjoyed by the house of commons in the initiation and control of financial legislation. In addition they sought to wrest from the executive the control of public expenditure. Their weapons were specific appropriation and accountability to the legislature. For grants to the crown for public uses and the lodging of the moneys so granted with royal officials, when they became spendable on warrants drawn by the governor in council, they took to substituting financial measures in which it was provided in express words that the money granted should not be applied to any services other than those to which it was appropriated,[1] and that it should be lodged with a treasurer appointed by and responsible to the assembly itself. And upon occasion, they went even beyond that and set up a committee of their own body to examine the accounts, and restrained the governor from making payments until these accounts had been passed by the assembly itself. They thus began to establish ministerial officers of their own, appointed by and responsible to themselves, and to set up legislative committees with what were essentially executive functions. With this they coupled endeavours, by the curtailment of fees and the substitution of payment by salary, to subordinate to themselves officials whom they did not themselves appoint. The consequence was the growth of executive departments that were the instruments of the legislature and of a body of departmental officials who were its servants and directly responsible to it. And this was the model followed by the Continental Congress; and its handiwork, in its turn, set the pattern for the executive departments of the government of the United States established in 1789, and determined the character of the American cabinet.

Seeking at first to give effect to its policy by the agency of its own members, the Continental Congress found itself driven by the force of events to establish executive departments administered by officials responsible to itself. The select committee and the later standing committee gave place, under the mere pressure of business, to the Board composed at least in part of persons who were not themselves members of Congress and to the single official supported by the necessary complement of departmental clerks. These officers continued to be directly responsible to the

[1] Labaree (ed.), *Royal Instructions to British Colonial Governors*, i. 209.

legislature and in a large measure dependent upon it, not merely for their authority, but also for the direction of their activities and the implementation of their recommendations.[1]

It is this sequence of events that explains both the character of the American cabinet and certain vestigial features in the structure of congress. The new American 'cabinet' in 1789 was not a descendant of the colonial council. It was created by the transfer, to the service of the new executive head of the federal union, of the administrative departments with which the Continental Congress had provided itself. There was in contemporary thought, it is true, some confusion of this body with what was specifically referred to as the 'Cabinet Council' of the English government.[2] But the analogy was not a just one. 'The principal officers of the great departments', the efficiency of whose power in England Pinckney perceived,[3] were not in the United States of conciliar but of legislative origin; and one of them, the Secretary of the Treasury, continued for nearly a century to have distinct and direct responsibility to congress itself.[4] While on the other hand, the proposal to make the executive the mere agent of congress was rejected, congress yet continued to confer executive powers upon its own standing committees; and these had, and still have, their own officers.[5] Of all this the roots lie, not in 'our council for the affairs in our said province',[6] but in the constitutional devices of the lower houses of the colonial legislatures.

[1] Cf. J. B. Sanders, *Evolution of the Executive Departments of the Continental Congress, 1774–1789* (Chapel Hill, N.C., 1935).

[2] H. B. Learned, *The President's Cabinet* (New Haven, 1912), pp. 90–4; cf. Sanders, *op. cit.*, pp. 187–8.

[3] Learned, *op. cit.*, p. 93. [4] *Ibid.*, pp. 100–5; Sanders, *op. cit.*, pp. 191–2.

[5] Learned, *op. cit.*, pp. 350–1. [6] Labaree, *op. cit.*, i. 29.

ROYAL HISTORICAL SOCIETY

REPORT OF COUNCIL. SESSION 1953–54

The Council of the Royal Historical Society have the honour of presenting the Annual Report to the Anniversary Meeting as follows:

Professor Helen M. Cam has been nominated as the Society's representative on a joint committee of the American Historical Association, the Mediaeval Academy of America, the British Academy and the Royal Historical Society, established to produce a new edition of Gross, *Sources and Literature of English History*, and other bibliographies of British history.

The representation of the Society upon various bodies recorded in the Reports for 1946–47, 1951–52, and 1952–53, has been continued. Professor W. Rees serves on the National Co-operating Body for the Social Sciences (for the purposes of Unesco), Professor J. G. Edwards (or in the event of his being unable to attend a meeting, Mr. T. F. Reddaway) on the Advisory Council on the Export of Works of Art, Professor Margaret Deanesly, Mr. K. B. McFarlane and Professor R. Pares on the British National Committee of the International Historical Congress, Professor J. G. Edwards on the Council of the British Records Association, Mr. T. F. Reddaway on the Standing Conference for Local History, Professor V. H. Galbraith on the Advisory Committee appointed by the Minister of Town and Country Planning to supervise the listing of buildings of special architectural and historic interest, and Professor W. N. Medlicott on the Committee to advise the publishers of the *Annual Register*.

Three volumes of the Society's publications were issued during the session, namely, *Transactions*, *Fifth Series*, Volume 4, *Camden Miscellany*, Volume XX, and *The kalendar of Abbot Samson of Bury St. Edmunds and related documents*, edited by Mr. R. H. C. Davis. The first of the two Camden volumes was numbered Volume LXXXIII in *Camden Series*, *Third Series*, the second Volume LXXXIV. They were allocated to the year 1950–51.

At the end of the session three volumes (excluding *Transactions*) were in the press. The Council have approved for publication *The diary of Thomas Rugge, 1659–61*, to be edited by Professor W. L. Sachse. Two works, *The commercial correspondence of Lionel Cranfield* and *The correspondence of Austin Henry Layard, 1877–78*, which had been provisionally accepted by Council in the past, have been withdrawn from the list with the consent of their respective editors.

Sir Maurice Powicke, with the assistance of Dr. E. B. Fryde and an editorial committee, has undertaken the preparation of a new edition of the *Handbook of British Chronology*.

The compilation of *Writings on British History, 1940–1945*, is approaching completion, and Mrs. Jacobs' appointment has been renewed so as to retain her services for a further three months. The Council has resolved, as soon as the publication of this volume has been achieved, to put in hand the work upon the years 1946–50.

The following papers were read during the session 1953–54:

'Thirds and thirds of thirds. The division of the spoils of war in the fourteenth century.' By D. Hay. (10 October, 1953.)

'Louis XIV and the origins of the War of the Spanish Succession.' By Professor M. A. Thomson. (14 November, 1953.)

'English gaols in the twelfth and thirteenth centuries.' By R. B. Pugh. (9 January, 1954.)

'East Anglia and the Danelaw.' By R. H. C. Davis. (13 February, 1954.)

'The role of the London Missionary Society in the opening up of East Central Africa.' By A. J. Hanna. (13 March, 1954.)

'North Africa and the West in the early middle ages.' By W. H. C. Frend. (8 May, 1954.)

The President, Professor H. Hale Bellot, delivered an address at the Anniversary Meeting on 12 December, 1953, on 'Thomas Jefferson in American historiography'. The Alexander Prize was awarded to the Rev. L. Boyle, O.P., for his essay on 'The *Oculus Sacerdotis* and some other works of William of Pagula'. The essay was read at the meeting on 12 June, 1954. The annual garden party was held on 10 July, 1954.

At the Anniversary Meeting on 12 December, 1953, Professor R. A. Humphreys was elected Honorary Secretary to fill the vacancy caused by the election of Professor H. Hale Bellot to the Presidency. The Vice-Presidents retiring under By-law XVII

were Professor C. R. Cheney and Professor W. Rees. K. B. McFarlane and Lady Stenton were elected to fill the vacancies. The members of Council retiring under By-law XVII were R. L. Atkinson, Professor H. Butterfield, Professor J. H. Le Patourel and Miss C. V. Wedgwood. Professor W. L. Burn, Professor A. Goodwin, Professor H. Rothwell and Professor F. Wormald were elected to fill the vacancies. Messrs. C. Ryland Beeby and Co. were appointed auditors for the year 1953–54.

Council record with regret the death of 14 Fellows and of 3 Corresponding Members, Professor A. Dopsch, elected in 1935, Professor F. Meinecke, elected in 1935, and Professor E. Ravignani, elected in 1951. 7 Fellows and 1 Associate have resigned. 52 Fellows and 11 Associates have been elected and 18 Libraries have been admitted as Subscribing Libraries. 1 Fellow has been re-instated and 2 Libraries have been re-admitted. 6 Associates have been elected to the Fellowship. The membership of the Society on 30 June, 1954, was 752 Fellows, 29 Corresponding Members, and 103 Associates. Of the Fellows, 251 were life members. The Subscribing Libraries numbered 398. 24 Societies, British and foreign, exchanged their publications with those of the Royal Historical Society.

The Treasurer reports that the income of the Society for the year 1 July, 1953 to 30 June, 1954 exceeded the expenditure chargeable against it by £336 12s. 2d. This surplus has been allocated to Publications. The sum of £1,626 12s. 2d. has thus been granted for Publications, as against £1,241 15s. 8d. in the previous year, making, with the addition of the proceeds of sales, an allocation to the Publication Fund of £1,986 8s. 2d., compared with £1,515 6s. 11d. in the previous year. The cost of publishing has continued to rise, and the greater allocation is fully absorbed in maintaining the existing flow of volumes.

ROYAL HISTORICAL SOCIETY

I.—Income and Expenditure Account for the Year ended 30 June 1954

Dr. *Cr.*

1953	*Expenditure*	£ s. d.	£ s. d.
£			
	Establishment Expenses		
202	Rent—96, Cheyne Walk	£202 2 0	
19	Rent—Warehousing of Stock	19 10 0	
80	Rates	93 13 1	
22	Insurances, *less* Commission	23 10 9	
6	Repairs	12 10 8	
—	Furniture and Fittings	50 15 10	
85	Wages	60 0 0	
33	Extra Service and Cleaning	32 5 2	
22	Lighting and Heating	24 13 7	
10	National Insurance	9 15 10	
12	Catering	12 1 8	
2	Sundries	5 16 6	
493			546 15 1
	Secretarial and Administrative Expenses		
500	Salary	500 0 0	
50	Superannuation	50 0 0	
162	Clerk's Salary	206 5 0	
17	National Insurance	19 7 9	
122	General Printing and Stationery (*less* Sales of Official Pamphlet, £4 1s. 0d.)	128 0 0	
39	Accountancy and Audit	38 17 0	
57	Postages	48 0 11	
15	Telephone	16 11 2	
10	Sundries	20 1 7	
972			1,027 3 5
	Other Charges		
6	Alexander Prize Medal	5 12 0	
—	do. Examiner's Fee	5 5 0	
1	Friends of National Libraries	1 1 0	
1	British Records Association	1 0 0	
16	British National Committee of the International Congress of Historical Sciences	15 15 0	
—	Counsel's opinion *re* Covenants	29 1 0	
24			57 14 0
100	**Library**—Grant		100 0 0
100	**Contingencies Reserve Fund**—Grant		100 0 0
	Publications		
160	Director's Honorarium	160 0 0	
350	Salary of Assistant Officer	350 0 0	
54	Clerk's Salary (Part)	—	
40	Other Secretarial Expenses	45 0 0	
12	National Insurance	10 3 8	
1,100	Publications Account: Grant	1,290 0 0	
273	Proceeds from sales (*per contra*) transferred	359 16 0	
		1,649 16 0	
1,989			2,214 19 8
3,678	**Balance**, being Excess of Income over Expenditure for the year transferred as a further		4,046 12 2

1953	*Income*	£ s. d.	£ s. d.
£			
	Subscriptions		
	Received for 1954—		
102	Associates	£101 17 0	
711	Libraries	1,127 17 6	
1,404	Fellows	1,469 10 11	
2,217			2,699 5 5
137	Arrears of subscriptions received		111 3 9
194	Life Subscriptions	351 15 0	
	Less Proportion required by By-law IX to be invested	209 6 0	
121			
73			142 9 0
	Interest and Dividends		
320	From General Investments	282 8 4	
746	From Sir George W. Prothero Bequest	732 0 9	
33	Bank Interest	36 16 4	
1,099			1,051 5 5
	Royalties		
21	From Sir George W. Prothero Bequest		19 4 9
273	**Sales of Publications**		359 16 0

ROYAL HISTORICAL SOCIETY

II.—Balance Sheet 30 June 1954

1953		£ s. d.	1953		£ s. d.
£	**Funds**		£	**Investments**	
	Balances at 30 June 1954 as per		8,551	General Account . . £8,550 14 8	
30,534	Account III	30,499 11 6		(Market Value at 30 June 1954, £7,499 8s. od.)	
			22,380	Sir George W. Prothero Bequest . . . 22,380 7 1	
				(Market Value at 30 June 1954, £18,830 14s. od.)	
			30,931		30,931 1 9
108	Subscriptions received in Advance .	204 18 11		**Current Assets**	
	Investment Reserve Account			Balances at Banks :—	
2,363	As at 30th June 1953	2,362 10 0	384	Current Accounts . 374 9 1	
			7	Deposit Account . 34 11 3	
			558	Post Office Savings Bank 570 17 9	
				London Trustee Savings	
			1,125	Bank . . . 1,155 17 7	
			—	Cash in hand . . . 3 0	
			2,074		2,135 18 8
				Note : The Society also owns the Library, Furniture and Office Equipment at 96, Cheyne Walk, Chelsea, and a Stock of its own publications, the cost of which has been written off to Income and Expenditure Account.	
£33,005		£33,067 0 5	£33,005		£33,067 0 5

We have examined the foregoing Income and Expenditure Account and Balance Sheet with the Books and Vouchers of the Society. We have verified the Investments appearing in the Balance Sheet. We report that the above Balance Sheet is, in our opinion, properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Society, according to the best of our information and explanations given to us, and as shown by the books of the Society.

C. RYLAND BEEBY, HARMAR & CO.,
Chartered Accountants, Auditors.

119/125, Finsbury Pavement, London, E.C.2.
22 *September*, 1954.

ROYAL HISTORICAL SOCIETY

III.—Statement of Funds 30 June 1954

	Balance at the Beginning of the Year. £ s. d.		Grants and Additions during the Year. £ s. d.		Expenditure and Withdrawals during the Year. £ s. d.	Balance at the End of the Year. £ s. d.
The Sir George W. Prothero Bequest	22,412 15 11		—		—	22,412 15 11
Life Subscriptions Fund	2,861 8 0	(*a*)	209 6 0	(*b*)	41 6 0	3,029 8 0
Contingencies Reserve Fund (formerly Lease Renewal Fund)	612 0 4	(*c*)	100 0 0		—	712 0 4
Pension Fund	706 4 6		—	(*d*)	200 0 0	506 4 6
Library Fund	9 5 3	(*e*)	108 7 4		158 10 6	*Overspent 40 17 11*
Publications Fund (*f*)	2,885 9 8		1,989 17 0		2,083 6 8	2,792 0 0
'Writings on British History' Fund	97 8 9		—		—	97 8 9
General Fund	949 5 11	(*b*)	41 6 0		—	990 11 11
	£30,533 18 4		£2,448 16 4		£2,483 3 2	£30,499 11 6

REFERENCES

(*a*) Proportion of Life Subscriptions received in 1954, and required by By-Law IX to be invested.
(*b*) Proportion of Life Subscriptions transferred to General Fund in accordance with By-Law IX.
(*c*) Grant for the year.
(*d*) Payment to Miss M. B. Curran.
(*e*) £8 7s. 4d. proceeds from sales during the year, *plus* £100 Grant for the year.
(*f*) See Account IV.

ROYAL HISTORICAL SOCIETY

IV.—Publications Account for the Year ended 30 June 1954

Dr. *Cr.*

	£	s.	d.		£	s.	d.
To Payments made during the year:—				By Balance of Allocations at 30 June 1953, Brought Forward	2,885	9	8
Camden Third Series:—				„ Allocation for Publications, 1953–54:—			
Vol. 83	734	2	9	Grants 1,626 12 2			
„ 84 (*less* £25—payment by Editor towards cost of proof corrections)	766	16	2	Proceeds of Sales 359 16 0 (As per Income and Expenditure Acct.)	1,986	8	2
Transactions:—				„ Donation received	3	8	10
5th Series, Vol. 4	535	13	4				
Binding—*Walter of Henley's Husbandry*	16	0	0				
Sundry Postages, Packing and Expenses	30	14	5				
	2,083	6	8				
„ Balance of Allocations at 30 June 1954 (required to meet cost of publications due to subscribers at date of account)	2,792	0	0				
	£4,875	6	8		£4,875	6	8

THE DAVID BERRY TRUST

Receipts and Payments Account for the Year ended 30 June 1954

Receipts					*Payments*				
	£	s.	d.			£	s.	d.
To Balance in Hand, 30 June 1953, brought forward from last Account, viz.:					By Printing and Postage	2	8	5
Cash at Bank: Current Account £68 0 0					„ Balance in Hand, 30 June 1954, carried forward, viz.:			
Deposit Account 7 2 7					Cash at Bank: Current Account 109 11 3			
Cash in hand 15 5					Post Office Savings Bank 7 4 4			
£100 3% Defence Bonds (at cost) 100 0 0					Cash in Hand 10 5			
£200 2½% Defence Bonds (at cost) 200 0 0					£100 3% Defence Bonds (at cost) 100 0 0			
	375	18	0		£200 2½% Defence Bonds (at cost) 200 0 0			
„ Dividends on Investments per Charity Commissioners	35	14	8			417	6	0
„ Interest on £100 3% Defence Bonds	3	0	0					
„ Interest on £200 2½% Defence Bonds	5	0	0					
„ Interest on Deposit Account at Bank		1	9					
	£419	14	5			£419	14	5

We have examined the above account and find it correct.

C. RYLAND BEEBY, HARMAR & CO.,
Chartered Accountants, Auditors.

119/125, Finsbury Pavement, London, E.C.2.
22 September 1954.

The late David Berry, by his Will dated the 23rd day of April, 1926, left £1,000 to provide in every third year a gold medal and prize money for the best essay on the Earl of Bothwell, or, at the discretion of the Trustee, on Scottish History of the James Stuarts I to VI, in memory of his father, the late Rev. David Berry.

The Trust is now regulated by a Scheme sanctioned by the Chancery Division of the High Court of Justice dated the 23rd day of January 1930, and made in an Action 1927.A.1233 David Anderson Berry, decd., Hunter and another *v.* Robertson and another.

This Society is now the Trustee, and the investments held on Capital Account consist of £634 17s. 2d. 3½% Conversion Stock and £540 13s. 2d. Treasury Stock 2½% 1975.

The Trustee will in every second year of the three-year period advertise in *The Times* inviting essays.

ALEXANDER PRIZE

The Alexander Prize was established in 1897 by L. C. Alexander, F.R.Hist.S. It consists of a Silver Medal awarded annually for an essay upon some historical subject. Candidates may select their own subject provided such subject has been previously submitted to and approved by the Literary Director. The essay must be a genuine work of original research, not hitherto published, and one which has not been awarded any other prize. It must not exceed 6,000 words in length and must be sent in on or before 31 January 1955. The detailed regulations should be obtained in advance from the Secretary.

LIST OF ALEXANDER PRIZE ESSAYISTS (1898–1954)[1]

1898. F. Hermia Durham ('The relations of the Crown to trade under James I').
1899. W. F. Lord, B.A. ('The development of political parties in the reign of Queen Anne').
1901. Laura M. Roberts ('The Peace of Lunéville').
1902. V. B. Redstone ('The social condition of England during the Wars of the Roses').
1903. Rose Graham ('The intellectual influence of English monasticism between the tenth and twelfth centuries').
1904. Enid W. G. Routh ('The balance of power in the seventeenth century').
1905. W. A. P. Mason, M.A. ('The beginnings of the Cistercian Order').
1906. Rachel R. Reid, M.A. ('The Rebellion of the Earls, 1569').
1908. Kate Hotblack ('The Peace of Paris, 1763').
1909. Nellie Nield, M.A. ('The social and economic condition of the unfree classes in England in the twelfth and thirteenth centuries').
1912. H. G. Richardson ('The parish clergy of the thirteenth and fourteenth centuries').
1917. Isobel D. Thornley, B.A. ('The treason legislation of 1531–1534').
1918. T. F. T. Plucknett, B.A. ('The place of the Council in the fifteenth century').
1919. Edna F. White, M.A. ('The jurisdiction of the Privy Council under the Tudors').
1920. J. E. Neale, M.A. ('The Commons Journals of the Tudor Period').
1922. Eveline C. Martin ('The English establishments on the Gold Coast in the second half of the eighteenth century').

[1] No award was made in 1900, 1907, 1910, 1911, 1913, 1914, 1921, 1946, 1948. The prize Essays for 1909 and 1919 were not published in the *Transactions*. No Essays were submitted in 1915, 1916 and 1943.

1923. E. W. Hensman, M.A. ('The Civil War of 1648 in the east midlands').
1924. Grace Stretton, B.A. ('Some aspects of mediæval travel').
1925. F. A. Mace, M.A. ('Devonshire ports in the fourteenth and fifteenth centuries').
1926. Marian J. Tooley, M.A. ('The authorship of the *Defensor Pacis*').
1927. W. A. Pantin, B.A. ('Chapters of the English Black Monks, 1215–1540').
1928. Gladys A. Thornton, B.A., Ph.D. ('A study in the history of Clare, Suffolk, with special reference to its development as a borough').
1929. F. S. Rodkey, A.M., Ph.D. ('Lord Palmerston's policy for the rejuvenation of Turkey, 1839–47').
1930. A. A. Ettinger, D.Phil. ('The proposed Anglo-Franco-American Treaty of 1852 to guarantee Cuba to Spain').
1931. Kathleen A. Walpole, M.A. ('The humanitarian movement of the early nineteenth century to remedy abuses on emigrant vessels to America').
1932. Dorothy M. Brodie, B.A. ('Edmund Dudley, minister of Henry VII').
1933. R. W. Southern, B.A. ('Ranulf Flambard and early Anglo-Norman administration').
1934. S. B. Chrimes, M.A., Ph.D. ('Sir John Fortescue and his theory of dominion').
1935. S. T. Bindoff, M.A. ('The unreformed diplomatic service, 1812–60').
1936. Rosamond J. Mitchell, M.A., B.Litt. ('English students at Padua, 1460–1475').
1937. C. H. Philips, B.A. ('The East India Company "Interest", and the English Government, 1783–4').
1938. H. E. I. Phillips, B.A. ('The last years of the Court of Star Chamber, 1630–41').
1939. Hilda P. Grieve, B.A. ('The deprived married clergy in Essex, 1553–61').
1940. R. Somerville, M.A. ('The Duchy of Lancaster Council and Court of Duchy Chamber').
1941. R. A. L. Smith, M.A., Ph.D. ('The *Reginen Scaccarii* in English monasteries').
1942. F. L. Carsten, D.Phil. ('Medieval democracy in the Brandenburg towns and its defeat in the fifteenth Century').
1944. Rev. E. W. Kemp, B.D. ('Pope Alexander III and the canonization of saints').
1945. Helen Suggett, B.Litt. ('The use of French in England in the later middle ages').
1947. Mrs. June Milne, B.A. ('The diplomacy of Dr. John Robinson at the court of Charles XII of Sweden, 1697–1709').
1949. Ethel Drus, M.A. ('The attitude of the Colonial Office to the annexation of Fiji').
1950. Doreen J. Milne, M.A., Ph.D. ('The results of the Rye House Plot, and their influence upon the Revolution of 1688').
1951. K. G. Davies, B.A. ('The origins of the commission system in the West India trade').

1952. G. W. S. Barrow, B.Litt. ('Scottish rulers and the religious orders, 1070–1153').
1953. W. E. Minchinton, B.Sc.(Econ.) ('Bristol—metropolis of the west in the eighteenth century').
1954. Rev. L. Boyle, O.P. ('The *Oculus Sacerdotis* and some other works of William of Pagula').

DAVID BERRY PRIZE

The David Berry Prize was established in 1929 by David Anderson-Berry in memory of his father, the Reverend David Berry. It consists of a Gold Medal and Money Prize awarded every three years for Scottish History. Candidates may select any subject dealing with Scottish History within the reigns of James I to James VI inclusive, provided such subject has been previously submitted to and approved by the Council of the Royal Historical Society. The Essay must be a genuine work of original research not hitherto published, and one which has not been awarded any other prize. There is no limit to the length of the Essay. It must be sent in on or before 31 October 1955.

LIST OF DAVID BERRY PRIZE ESSAYISTS (1937–1949)[1]

1937. G. Donaldson, M.A. ('The polity of the Scottish Reformed Church *c.* 1560–1580, and the rise of the Presbyterian movement').
1943. Rev. Prof. A. F. Scott Pearson, D.Th., D.Litt. ('Anglo-Scottish religious relations, 1400–1600').
1949. T. Bedford Franklin, M.A., F.R.S.E. ('Monastic agriculture in Scotland, 1440–1600'),

[1] No Essays were submitted in 1940. No awards were made in 1946 and 1952.

ROYAL HISTORICAL SOCIETY

(INCORPORATED BY ROYAL CHARTER)

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P. Grierson, M.A., F.S.A., *Literary Director*
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